and compared and find same correctly engrossed.

ROBERTS, Chairman.

Committee Room,
Austin, Texas, June 22, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had Senate Concurrent Resolutions Nos 6 and 7 carefully examined and compared and find same correctly enrolled.

WESTERFELD, Chairman.

SIXTEENTH DAY

(Thursday, June 24, 1937)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Woodul.

The roll was called and the following Senators were present:

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

The following Senators were absent and excused:

Head	Spears
Shivers	Weinert

A quorum was announced present.

The invocation was offered by the Chaplain.

Reading of the Journal of the proceedings of yesterday was dispensed with, on motion of Senator Roberts.

Leaves of Absence

Senator Head was granted leave of absence for today and the remainder of the week on account of illness, on motion of Senator Collie.

Senators Weinert and Shivers were granted leaves of absence for today, on account of important business, on motion of Senator Burns.

House Bill No. 12 on Third Reading

The President laid the bill before the Senate on its third reading and final passage:

H. B. No. 12, A bill to be entitled "An Act authorizing the Commissioner of Agriculture to dispose of all jacks and stallions now owned by the State of Texas which were purchased out of the Special Jack and Stallion Fund and the Special Racing Fund as created under Chapter 10, Acts of the First Called Session, Forty-third Legislature, and further amended by Chapter 344, Acts of the Forty-fourth Legislature, Regular Session; etc., and declaring an emergency."

The bill was read third time.

On motion of Senator Van Zandt and by unanimous consent, it was ordered that the caption of the bill be amended to conform to the body of the bill as passed to engrossment.

The bill then was passed by the following vote:

Yeas—18

Beck	Newton
Brownlee	Oneal
Collie	Redditt
Cotten	Roberts
Davis	Small
Holbrook	Stone
Lemens	Sulak
Neal	Van Zandt
Nelson	Woodruff

Nays—7

Aikin	Rawlings
Isbell	Westerfeld
Moore	Winfield
Pace	

Absent

Burns	Hill

Absent—Excused

Head	Spears
Shivers	Weinert

Report on Bill to Reorganize Judicial Branch of the Federal Government

Senator Moore, by unanimous consent, submitted at this time a copy of the report of the Judiciary Committee of the United States Senate on

the bill to reorganize the judicial branch of the Federal Government and obtained unanimous consent of the Senate to have the report printed in the Journal.

(The full text of the report is shown in the Appendix of today's Journal.)

At Ease

On motion of Senator Van Zandt, the Senate, at 10:15 o'clock a. m., stood at ease subject to the call of the President.

The President called the Senate to order at 10:20 o'clock a. m.

Messages From the House

A Clerk from the House was recognized to present the following messages:

Hall of the House of Representatives,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills and resolution:

S. B. No. 11, A bill to be entitled "An Act validating confirming, approving and legalizing all bonds heretofore authorized by the necessary vote of the qualified voters of all cities of more than one hundred and sixty thousand (160,000) population according to the last preceding Federal census and all bond elections held in such cities for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated insofar as any irregularities in following the requirements of the provisions of the general law that such elections shall be held not more than thirty (30) days from the date of the election order, and that notice of such election shall be published on the same day of each of two successive weeks in a newspaper, the date of the first publication to be not less than fourteen (14) days prior to the date set for the election, are concerned; provided that the irregularities in following the requirements of city charters as to time in the calling of such elections shall not in any manner affect the validity of said bonds, but same shall, if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, be valid subsisting indebtedness of said cities, and declaring an emergency."

S. B. No. 12, A bill to be entitled "An Act applying to independent school districts in counties having a population of not less than thirty-two thousand three hundred and fifty (32,350) and not more than thirty-two thousand eight hundred (32,800) according to the last preceding Federal census; authorizing said school districts to borrow money in a sum not to exceed One Hundred and Fifty Thousand ($150,000.00) Dollars to supplement funds on hand for the construction and equipping of public free school buildings, and to issue time warrants therefor without an election; prescribing the terms and conditions for issuance of said time warrants; providing for the levying of a tax to pay same; prescribing the terms and conditions and the rate of interest of said time warrants; and declaring an emergency."

S. B. No. 13, A bill to be entitled "An Act providing that in certain counties, convicts, either laying their fines out in jail or working such fines out on the county farm or on the county roads or other public works, shall receive a credit therefor of One ($1.00) Dollar per day for each day worked or spent in jail; and declaring an emergency."

(With amendments.)

S. B. No. 15, A bill to be entitled "An Act to amend Chapter 143, local and special Laws of the Thirty-ninth Legislature, at its First Called Session, 1926, the same being a special law validating the creation of Road District No. 2 of Chambers County, Texas, by adding to said chapter new Sections numbered 5a and 5b, validating road bond election held on June 12, 1937, and further prescribing the duty of the commissioners' court in reference to the issuance of such bonds; and declaring an emergency."

S. B. No. 16, A bill to be entitled "An Act authorizing counties of a certain class according to population to lease any county hospital of said county to be operated as a county hospital by the lessee; prescribing

regulations relating to said subject; and declaring an emergency."

S. B. No. 17, A bill to be entitled "An Act validating, ratifying, confirming and legalizing all bonds heretofore authorized by the necessary vote of the qualified voters of all cities and towns having less than two thousand six hundred thirty-two population and more than twenty-six hundred one population according to the last preceding Federal census, and all bond elections held in such cities and towns for the purpose of voting such bonds insofar as any irregularities in following the requirements of the General Law governing the form of election order, notice, ballot and canvassing of returns of such elections are concerned; and providing that if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, shall constitute legal and binding obligations of such cities and towns; providing that this Act shall not apply to any proceedings or bonds the validity of which is being contested in any suit pending at the effective date of this Act, and declaring an emergency."

S. B. No. 18, A bill to be entitled "An Act authorizing the governing body of the incorporated City of Gladewater, Gregg County, Texas, to close that portion of Quitman Avenue lying between Block 4 and Block 20, and between Block 3 and Block 21 of the original townsite of said city in order that said street may be transferred to and used by the Gladewater County Line Independent School District for school purposes; provided that as a result of said transfer that no rights either in the land or minerals thereunder shall inure to the benefit of anyone except said school district, and that said school district shall have no right to sell, lease, or otherwise alienate said land or minerals thereunder, and declaring an emergency."

S. B. No. 19, A bill to be entitled "An Act to fix the maximum of tax to be levied for school purposes in all independent school districts which include within their limits a city or town which according to the latest Federal census had a population of not fewer than 400 and not more than 450, and being a consolidated independent school district containing not less than ten original school districts, whether organized under General or Special Law, repealing all laws in conflict herewith, both General and Special, and declaring an emergency."

(With amendments.)

S. B. No. 20, A bill to be entitled "An Act providing for certain restrictions on the sale of wine and beer on premises where consumed, further providing for certain and definite penalities for violations in the traffic of alcoholic beverages and in making and keeping of records of permittees and licensees; further providing for certain and definite issues to be submitted in local option elections; further providing for definite and certain privileges to be exercised by permittees and licensees as well as procedure in filing of applications therefor; further clarifying the duties and the powers of the Board in the cancellation and suspension of licenses and permits; clarifying the procedure in appealing from decisions of the Board; amending Sections 15-(16), 15(c) (2), 17-(4), 17-(6), 21(c), 40, 23(a)-(2), all of Article I and Sections 3(h), 3-b, 7 (d), 7(e), 9, 19(h), 19(a), 19(g), 20, 22, 25(a), and 26, all of Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Sections 16-15(16), 19-15(c), (2), 22-17(4), 22-17(6), 29-21(c), 30(a)-40, 31-23(a) (2), 50-3(h), 50-3-b, 50-7(d), 50-7(e), 50-9, 50-19(h), 50-19(a), 50-19(g), 50-20, 50-22, 50-25(a), and 50-26 respectively of H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature; fixing the effective date of this Act, and declaring an emergency."

(With amendments.)

S. B. No. 21, A bill to be entitled "An Act to amend Article 1315 (a) of the Civil Statutes of Texas so that the provisions of said Act shall extend to all private corporations incorporated under the General Laws of Texas; and so that the period of ten years prior to the expiration of the Charter of any extension thereof referred to in Article 1315(a) shall include the period of time during which such corporation may have

continued its existence under the provisions of Article 1389 of the Revised Civil Statutes of Texas of 1925."

S. B. No. 22, A bill to be entitled "An Act providing for the validation of the organization of and establishment of water improvement districts situated within a water power control district organized under Section 29 of Chapter 76, Acts of the Forty-third Legislature, and of Chapter 19, page 54, Acts of 1933, First Called Session of the Forty-third Legislature; providing for the validation of bonds, authorized to be issued by such districts which have been authorized by two-thirds majority of those voting at such elections; providing for the validation of such bonds by suit as now provided by law if the districts so elect or by forwarding to the Attorney General a certified copy of the proceedings providing for the issuance of such bonds, the examination thereof by the Attorney General and the issuance of his official certificate that such bonds are valid and binding obligations of said districts if he shall so find, and that such official certificate shall authorize the registration of said bonds by the Comptroller of Public Accounts in the same manner as if same had been validated by suit; provided, however that nothing contained in this Act shall affect any pending litigation; and declaring an emergency."

S. B. No. 24, A bill to be entitled "An Act to amend H. B. No. 557, Acts of the Regular Session, Forty-fifth Legislature, by striking out all of Sections 9, 9a, 9b and 9c, and substituting in lieu thereof a new Section to be Section 9; fixing the administration of H. B. No. 557, Acts of Regular Session Forty-fifth Legislature and H. B. No. 99, Acts of Regular Session Forty-fifth Legislature; amending H. B. No. 99, Acts of Regular Session Forty-fifth Legislature by repealing Section 26 of said bill; providing for the giving of a surety bond of Five Thousand ($5000) Dollars, contingent upon faithful performance of all provisions of H. B. No. 99, Acts Regular Session Forty-fifth Legislature and H. B. No. 557, Acts Regular, Session Forty-fifth Legislature, and the licensing of any person under both Acts on the payment of only one license fee; and declaring an emergency."

S. B. No. 25, A bill to be entitled "An Act providing that no county having a population of not less than 28,700, nor more than 29,000, according to the last preceding, or future Federal Census shall have a county auditor; abolishing the office of county auditor in any such county and declaring an emergency."

(With amendments.)

S. B. No. 29, A bill to be entitled "An Act amending Chapter 141, Acts Fortieth Legislature, Regular Session, and House Bill No. 321, Acts Regular Session, Forty-fifth Legislature, creating the office of the Veterans' State Service Office attached to the Adjutant General's Department; providing for the appointment of a Veterans' State Service Officer and certain Assistant Veterans' State Service Officers, and other necessary personnel; defining the qualifications, authority, and duties of such officers; fixing and authorizing payment of their salaries, travel, and other expenses; providing that the main office shall be located in Austin, Travis County, Texas; repealing all laws and parts of laws in conflict therewith; providing a saving clause, and declaring an emergency."

S. B. No. 27, A bill to be entitled "An Act making an appropriation of the sum of One Hundred Thousand Dollars ($100,000), or so much thereof as may be necessary, out of any funds in the State Treasury, not otherwise appropriated, to pay the contingent expenses, and to pay the mileage and per diem of members and the per diem of officers and employees of the First Called Session of the Forty-fifth Legislature, and to pay any unpaid accounts of the Regular Session of the Forty-fifth Legislature, and declaring an emergency."

S. B. No. 26, A bill to be entitled "An Act providing that Galveston Street between First and Second Streets in the unincorporated town site of Balmorhea, Reeves County, Texas, be closed so that a school building may be erected across said street and declaring an emergency."

S. B. No. 28, A bill to be entitled "An Act validating, ratifying, con-

firming and legalizing all time warrants heretofore authorized by the governing bodies of independent school districts in the State of Texas having a scholastic enumeration of not less than 769 and not more than 775 according to the last preceding scholastic enumeration, validating all proceedings heretofore had in connection with the issuance of such time warrants, including the levy of and provision for a tax for the payment of principal and interest on said time warrants as the same mature and authorizing such governing bodies of said independent school districts to do any and all things necessary and requisite in the issuance, sale and delivery of said time warrants; providing that such time warrants; when issued and delivered, shall constitute legal and binding obligations of such independent school districts; providing that this Act shall not apply to any proceedings or time warrants, the validity of which is being contested in any suit pending at the effective date of this Act, and declaring an emergency."

S. C. R. No. 5—In regard to the use of the Hall of State in the Texas Centennial Exposition.

(With amendments.)

H. B. No. 23, A bill to be entitled "An Act instructing the Texas Racing Commission to turn over the Jockey Fund to the State Treasury for deposit to the General Fund, and declaring an emergency."

H. B. No. 25, A bill to be entitled "An Act fixing the compensation of County Auditors in every county having a population of not less than one hundred and ninety thousand (190,000) nor more than two hundred thousand (200,000) inhabitants according to the last preceding United States Census and prescribing how the same shall be paid; providing that in such counties where there is a City and County Hospital that the County Auditor shall audit the books and records of such hospital and shall make reports to the county and city governments covering the operation of such hospital and fixing the compensation therefor and prescribing how the same shall be paid; repealing all laws in conflict herewith, and declaring an emergency."

H. B. No. 30, A bill to be entitled "An Act declaring it unlawful to take, hunt, trap, shoot or kill any prairie chicken in Colorado and Austin Counties, Texas, for a period of five years; prescribing penalty for violation of the provisions of this Act; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

H. B. No. 32, A bill to be entitled "An Act amending Articles 793, Chapter 4, Code of Criminal Procedure, 1925, authorizing the Commissioner's Court of each county in Texas containing a population of not less than seven thousand one hundred (7,100) nor more than seven thousand one hundred fifty (7,150) according to the last preceding Federal Census, to fix the rate of wages to be paid county convicts committed to work on the county farm or public improvements at an amount per day not less than $1.00, nor more than $3.00, and declaring an emergency."

H. B. No. 33, A bill to be entitled "An Act amending Subsection (L) of Section 19, Chapter 465, Acts of the Forty-fourth Legislature, Second Called Session, by providing that premiums on deputies official bonds shall be a legal and legitimate expense of office in counties containing an excess of 190,000 population, and declaring an emergency."

H. B. No. 34, A bill to be entitled "An Act amending Subdivision 83 of Article 1302, Chapter 1, Title 32 of the Revised Civil Statutes of the State of Texas, 1925, authorizing the formation of private corporations to organize laborers, workingmen, wage earners and farmers to protect themselves in their various pursuits; requiring that the Secretary of State give notice of application for charters and amendments for such purposes to Commissioner of Labor Statistics; vesting authority in Commissioner of Labor Statistics to make investigations concerning such applications and to make written recommendations thereon to the Secretary of State; authorizing the Secretary of State at his discretion to refuse to approve and file charters or amendments which appear to him would not be for the best interest of the public, and declaring an emergency."

H. B. No. 36, A bill to be entitled "An Act amending Article 2094 of the Revised Civil Statutes of Texas, of 1925, as amended by Acts of the Forty-first Legislature, page 89, Chapter 43, Section 1, and providing that after the effective date of this Act, the provisions of said Article 2094, as amended, shall not apply to counties containing, according to the last proceeding Federal Census, a population of not less than twenty-five thousand and not more than thirty-seven thousand and five hundred and containing a city with a population, according to the last preceding Federal Census, of more than twenty-five thousand, and declaring an emergency."

H. B. No. 38, A bill to be entitled "An Act to amend Article 4285, Revised Civil Statutes, 1925, providing the procedure authorizing the issuance of letters of guardianship in estates of non-resident minors, persons of unsound mind and drunkards; and to amend Article 4286, Revised Civil Statutes, 1925, providing for the sale, renting, leasing, leasing for oil and gas and other minerals of personal and real property of non-resident wards, and for the removal of the same, under orders of the court having jurisdiction of such estate; and repealing Article 4289, Revised Civil Statutes of 1925, and declaring an emergency."

H. B. No. 39, A bill to be entitled "An Act granting the Commissioners' Court of Bell County permission to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals, and declaring an emergency."

H. B. No. 44, A bill to be entitled "An Act providing for the amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special, in conflict therewith, and declaring an emergency."

H. B. No. 45, A bill to be entitled "An Act amending Art. 793, Chapter 4, Code of Criminal Procedure, 1925, authorizing the Commissioners Court of each county in Texas to fix the rate of wages to be paid county convicts committed to workhouse, county farm or public improvements at an amount per day not less than $1.00 nor more than $3.00, and declaring an emergency."

H. B. No. 46, A bill to be entitled "An Act repealing House Bill No. 915, passed at the Regular Session of the Forty-fifth Legislature, and declaring an emergency."

H. B. No. 47, A bill to be entitled "An Act to amend Article 2371 of the Revised Civil Statutes of Texas of 1925, and as amended by House Bill No. 675, Acts of the Forty-fifth Legislature, Regular Session, by providing that in all counties of this State, having a population of two hundred and fifty thousand (250,000), or more, according to the last United States Census, the Commissioners' Court in such county may expend, in furnishing a rest room for women in the courthouse, or in courthouse buildings or on courthouse grounds, a sum not to exceed Three Hundred ($300.00) Dollars; and may expend for its maintenance, including the compensation paid by the county to the matron, an amount not to exceed One Hundred ($100.00) Dollars per month, and declaring an emergency."

H. B. No. 48, A bill to be entitled "An Act creating a special road law for Montague County; authorizing the Commissioners' Court to issue funding bonds or warrants in lieu of certain scrip warrants issued in the year 1937, and validating such script; providing the method of issuing the same; making it the duty of the Commissioners' Court to levy a tax sufficient to pay principal and interest as they mature and accrue; making the general laws pertaining to roads and bridges applicable in Montague County and providing that the provisions of this Act shall be effective in case of conflict with any general or special law; providing that if any portion of this Act shall be held invalid, such holding shall not affect the other portions hereof, and declaring an emergency."

H. B. No. 50, A bill to be entitled "An Act authorizing independent school districts in which there is situated a city with a population of not less than seven thousand one hundred (7,100) and not more than

seven thousand two hundred (7,200) according to the last preceding Federal Census to expend not more than fifty (50%) per cent of the taxes assessed and collected for a period not to exceed four (4) years for the purpose of paying warrants issued in the payment of premium upon bonds refinanced and/or refunded by such independent school district at a less rate of interest and thereby create a saving, and in the payment of the actual and necessary cost of refinancing and of refunding said bond, and declaring an emergency."

H. B. No. 51, A bill to be entitled "An Act to prohibit the use of a seine for taking fish in the waters and tributaries of the Bosque River in Hamilton County, Texas; providing, however, for the use of a net during the months of July, August, September, and October for the purpose of taking fish; permitting the use of a minnow seine not more than twenty (20) feet in length for the purpose of taking minnows for bait; providing a penalty; repealing Chapter 47, Acts of the Forty-fourth Legislature, Regular Session; repealing House Bill No. 965, Acts of the Forty-fifth Legislature, Regular Session; and all laws and parts of laws in conflict herewith, and declaring an emergency."

H. B. No. 52, A bill to be entitled "An Act authorizing the Commissioners' Court in each county in this State having a population of not less than 42,125, nor more than 42,150, according to the last preceding Federal Census, to allow each county commissioner certain expenses for traveling and in connection with the use of his automobile on official business in overseeing the construction work on public roads of the county; requiring each such commissioner to pay the expense of operation and repair of such vehicle so used by him without further expense to the county, and declaring an emergency."

H. B. No. 54, A bill to be entitled "An Act amending Article 3886e, Acts of the Forty-fourth Legislature, page 802, Chapter 343, Section 1, making adequate provision for the compensation of one Court Reporter to be appointed by the Criminal District Attorney in any county having a population in excess of two hundred and fifty thousand (250,000) and less than three hundred and fifty-five thousand (355,000) inhabitants according to the last preceding Federal Census and which alone constitutes two or more judical districts; providing that in each of such counties the salary of one Court Reporter appointed by the Criminal District Attorney shall not exceed Three Thousand ($3,000.00) Dollars per annum, to be paid monthly by such county by warrant drawn upon the general funds thereof, which compensation is less than now provided by Chapter 195, General Laws of the Regular Session, Forty-third Legislature, for the official shorthand reporter in each Judicial District in any such county; repealing that portion of Article 3886 as amended by Section 5 of said Chapter 220, having reference to the appointment of a Court Reporter by the District Attorney or Criminal District Attorney, and repealing that portion of Subsection f of Section 19, Acts, 1935, of the Second Called Session of the Forty-fourth Legislature, page 1762, Chapter 465, also known as Subsection f of Section 19 of Article 3912e, Revised Civil Statutes, so far as the salary of one Court Reporter is concerned, only, and repealing all laws or parts of laws, General and Special, in conflict herewith, and declaring an emergency."

H. B. No. 55, A bill to be entitled "An Act appointing Directors of San Antonio River Canal and Conservancy District, providing for the appointment of their successors, designating their terms of office, providing for the filling of vacancies, prescribing the oath of office, providing who is eligible for appointment, and declaring an emergency."

H. B. No. 57, A bill to be entitled "An Act amending Article 3899 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 220, Acts of the Regular Session of the Forty-third Legislature, and as amended by Chapter 311, Acts of the Regular Session of the Forty-fourth Legislature, and as amended by Chapter 465, Acts of the Second Called Session of the Forty-fourth Legislature; providing that criminal district attorneys who perform the duties of District Attorneys in certain counties may incur certain ex-

penses in investigating crime and accumulating evidence in criminal cases, and for the payment for mileage traveled by said criminal district attorneys in automobile furnished by them in the discharge of their official duties; providing that this Act shall be cumulative of all laws not in conflict herewith, and declaring an emergency."

H. B. No. 58, A bill to be entitled "An Act amending Article 1645, Revised Civil Statutes of Texas, 1925, as amended by Chapter 35, Acts of the Fortieth Legislature, First Called Session, as amended by Chapter 28, Acts of the Forty-first Legislature, First Called Session, as amended by Chapter 15, Acts of the Forty-second Legislature, Second Called Session, by adding thereto a new Section to be known as Article 1645b, providing for county auditors in counties containing a population of not less than twenty-seven thousand, five hundred and forty-five (27,545) nor more than twenty-seven thousand, five hundred and fifty-five (27,555) according to the last preceding Federal Census; providing for their compensation and the fund from which it shall be paid, and declaring an emergency."

H. B. No. 60, A bill to be entitled "An Act repealing Section (I) of Article 8017 of the 1925 Revised Civil Statutes of Texas, and declaring an emergency."

H. B. No. 61, A bill to be entitled "An Act to amend Article 4180 of the Revised Civil Statutes of the State of Texas as amended by Senate Bill No. 84, Acts of the Regular Session of the Forty-fifth Legislature, so as to provide for the investment by guardians of the surplus funds of their wards in bonds of any county or district or subdivision in Texas, or of any incorporated city or town in Texas, and declaring an emergency."

H. B. No. 62, A bill to be entitled "An Act amending Section 1 of House Bill No. 186, same being Chapter 10 of the Special Laws of the Forty-third Legislature, Regular Session by extending the closed season on deer in San Augustine and Sabine Counties until February 21, 1939, and declaring an emergency."

H. B. No. 65, A bill to be entitled "An Act amending Section 11 of Senate Bill No. 185, Acts of the Forty-fifth Legislature, Regular Session, and declaring an emergency."

H. B. No. 66, A bill to be entitled "An Act amending Section 2, of Senate Bill No. 185, Acts of the Forty-fifth Legislature, Regular Session, and declaring an emergency."

H. B. No. 67, A bill to be entitled "An Act for the purpose of conserving the oyster resources of Calhoun County, Texas, by withdrawing the submerged lands in said County from location and lease to private persons and corporations for the planting of oysters and making private oyster beds; making it unlawful to take and transplant seed oysters without securing a permit from the Commissioner's Court; providing a penalty; providing a saving clause, and declaring an emergency."

H. B. No. 68, A bill to be entitled "An Act ratifying, confirming and validating all Acts of County Boards of Trustees in laying out or attempting to establish, combine, abolish or change any independent or common school districts, and all elections held in any county in this State for the purpose of laying out, establishing, combining, abolishing or changing any such independent or common school districts; providing that contest may be filed within thirty (30) days after the effective date of this Act; providing this Act shall not affect districts which may be in litigation at this time, and declaring an emergency."

The House has concurred in Senate amendments to H. C. R. No. 26 by a viva voce vote.

The House has failed to pass to engrossment, by a vote of 21 yeas and 89 nays, the following bill:

H. B. No. 27, A bill to be entitled "An Act prohibiting any candidate for Precinct, County and District offices from contributing to any charitable or other organization or individual."

The point of order that the following bill does not come within the Governor's call has been sustained:

H. B. No. 28, A bill to be entitled "An Act fixing the compensation of official shorthand reporters in District Courts, Criminal District Courts and County Courts-at-Law in all counties having a population of more than three hundred and twenty-five thousand (325,000) and less than

three hundred and fifty-five thousand (355,000) inhabitants according to the last preceding or any future Federal Census; providing methods of payment, providing that if any section, paragraph, sentence, clause, phrase, or part of this Act be invalid, such invalidity shall not affect the remainder thereof; repealing all laws and parts of laws in conflict to the extent of such conflict only, and declaring an emergency."

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Hall of the House of Representatives,
Austin, Texas, June 24, 1937.

Hon Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 63, A bill to be entitled "An Act to amend Article 2687 of the 1925 Revised Civil Statutes of Texas by adding thereto a new Section to be known as Article 2687-a, prescribing the time of meeting of the County Board of School Trustees in counties containing a population of not less than one hundred thirty thousand and not more than one hundred thirty-three thousand, according to the last preceding Federal Census; providing for their compensation; providing the fund from which same shall be paid; providing this Act shall be cumulative of all existing laws on this subject but this Act shall apply where in conflict therewith, and declaring an emergency."

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

House Bills on First Reading

The following bills, received from the House today, were laid before the Senate, read first time, and referred to the committees indicated:

H. B. No. 23, to Committee on Finance.
H. B. No. 25, to Committee on Counties and County Boundaries.
H. B. No. 30, to Committee on Game and Fish.
H. B. No. 32, to Committee on Counties and County Boundaries.
H. B. No. 33, to Committee on Counties and County Boundaries.
H. B. No. 34, to Committee on Civil Jurisprudence.
H. B. No. 36, to Committee on Civil Jurisprudence.
H. B. No. 38, to Committee on Civil Jurisprudence.
H. B. No. 39, to Committee on Counties and County Boundaries.
H. B. No. 44, to Committee on Educational Affairs.
H. B. No. 45, to Committee on State Affairs.
H. B. No. 46, to Committee on Educational Affairs.
H. B. No. 47, to Committee on Counties and County Boundaries.
H. B. No. 48, to Committee on State Highways and Motor Traffic.
H. B. No. 50, to Committee on Educational Affairs.
H. B. No. 51, to Committee on Game and Fish.
H. B. No. 52, to Committee on Counties and County Boundaries.
H. B. No. 54, to Committee on Counties and County Boundaries.
H. B. No. 55, to Committee on State Affairs.
H. B. No. 57, to Committee on Counties and County Boundaries.
H. B. No. 58, to Committee on Counties and County Boundaries.
H. B. No. 60, to Committee on Mining, Irrigation and Drainage.
H. B. No. 61, to Committee on Civil Jurisprudence.
H. B. No. 62, to Committee on Game and Fish.
H. B. No. 65, to Committee on Educational Affairs.
H. B. No. 66, to Committee on Educational Affairs.
H. B. No. 67, to Committee on Game and Fish.
H. B. No. 68, to Committee on Educational Affairs.

Report of Standing Committees

Reports on House Bills Nos. 38, 51, 67, 52, 66, 65, 46, 48, 62, 30, 61, 44, 33, 32, 55, 45, 25, 63, 68, 50, 60, 47, 57, 36 and 39, were submitted by the chairmen of the several committees to which they were referred. (See appendix for reports in full.)

House Bill No. 48 on Second Reading

Senator Woodruff moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 48 be

placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President laid the bill before the Senate.

On motion of Senator Woodruff and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 48 on Third Reading

Senator Woodruff moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 48 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

House Bill No. 46 on Second Reading

Senator Redditt moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 46 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Nays—1

Burns

Absent—Excused

Head Weinert
Shivers

The President then laid the bill before the Senate.

On motion of Senator Redditt and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 46 on Third Reading

Senator Redditt moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 46 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin
Beck
Brownlee
Collie
Cotten
Davis
Hill
Holbrook
Isbell
Lemens
Moore
Neal
Nelson
Newton
Oneal
Pace
Rawlings
Redditt
Roberts
Small
Spears
Stone
Sulak
Van Zandt
Westerfeld
Winfield
Woodruff

Nays—1

Burns

Absent—Excused

Head Weinert
Shivers

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin
Beck
Brownlee
Collie
Cotten
Davis
Hill
Holbrook
Isbell
Lemens
Moore
Neal
Nelson
Newton
Oneal
Pace
Rawlings
Redditt
Roberts
Small
Spears
Stone
Sulak
Van Zandt
Westerfeld
Winfield
Woodruff

Nays—1

Burns

Absent—Excused

Head Weinert
Shivers

House Concurrent Resolution No. 14

The President laid before the Senate, for consideration at this time, the following resolution:

H. C. R. No. 14, Granting Judge Terry Dickens leave of absence from the State.

On motion of Senator Newton and by unanimous consent, the rule requiring concurrent resolutions to be referred to a committee was suspended and the resolution was considered at this time and was adopted.

Senate Bill No. 19 With House Amendments

Senator Cotten called up S. B. No. 19 from the President's table for consideration of the House amendments to the bill.

The President laid the bill before the Senate and the House amendments were read.

Senator Cotten moved that the Senate do not concur in the House amendments and that a conference committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate:

Senators Cotten, Burns, Moore, Isbell and Beck.

House Bill No. 65 on Second Reading

Senator Woodruff moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 65 be

placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate.

On motion of Senator Woodruff and by unanimous consent, Senate Rule 31a and Senate Rule 48 were suspended severally, to permit further consideration of the bill at this time.

The bill was read second time.

On motion of Senator Woodruff, the bill was tabled subject to call.

Senate Bill No. 20 With House Amendments

Senator Small called up S. B. No. 20 from the President's table, for consideration of the House amendments to the bill.

The President laid the bill before the Senate, and the House amendments were read.

Senator Small moved that the Senate do not concur in the House amendments and that a conference committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed.

Accordingly, the President appointed the following conferees on the bill on the part of the Senate:

Senators Small, Pace, Burns, Isbell and Spears.

House Bill No. 66 on Second Reading

Senator Woodruff moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 66 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate.

On motion of Senator Woodruff and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 66 on Third Reading

Senator Woodruff moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 66 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Holbrook
Beck	Isbell
Brownlee	Lemens
Burns	Moore
Collie	Neal
Cotten	Nelson
Davis	Newton
Hill	Oneal

Pace	Stone
Rawlings	Sulak
Redditt	Van Zandt
Roberts	Westerfeld
Small	Winfield
Spears	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

House Bill No. 52 on Second Reading

Senator Neal moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 52 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Neal
Beck	Nelson
Brownlee	Newton
Burns	Oneal
Collie	Pace
Cotten	Rawlings
Davis	Redditt
Hill	Roberts
Holbrook	Small
Isbell	Spears
Lemens	Stone
Moore	Sulak
Van Zandt	Winfield
Westerfeld	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate.

On motion of Senator Neal and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 52 on Third Reading

Senator Neal moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 52 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Hill
Beck	Holbrook
Brownlee	Isbell
Burns	Lemens
Collie	Moore
Cotten	Neal
Davis	Nelson

Newton	Spears
Oneal	Stone
Pace	Sulak
Rawlings	Van Zandt
Redditt	Westerfeld
Roberts	Winfield
Small	Woodruff

Absent—Excused

Head	Weinert
Shivers	

House Bill No. 51 on Second Reading

Senator Roberts moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 51 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate.

On motion of Senator Roberts and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 51 on Third Reading

Senator Roberts moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 51 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

House Bill No. 67 on Second Reading

Senator Roberts moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 67 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate.

On motion of Senator Roberts and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 67 on Third Reading

Senator Roberts moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 67 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

Senate Resolution No. 11

Senator Pace, by unanimous consent, offered the following resolution at this time:

Whereas, Judge Albert Williams, general counsel for the Tennessee Railroad Commission, and Hon. Leon Jourolmon, Jr., member of the Railroad Commission of Tennessee, are within the corridors in company with Commissioner Lon A. Smith of the Railroad Commission of Texas; now, therefore, be it

Resolved by the Senate of Texas, That they each be granted the privileges of the floor for the day and be requested to briefly address the Senate.

The resolution was read and was adopted.

Accordingly, the President appointed Senators Pace, Cotten and Beck to escort the distinguished visitors to the President's stand.

(Senator Davis in the Chair.)

The Presiding Officer presented Hon. Lon A. Smith, Railroad Commissioner of Texas, who, in turn, introduced Hon. Leon Jourolmon, Jr., to the Senate.

Mr. Jourolmon then addressed the Senate briefly.

Hon. Lon A. Smith then presented

Hon. Albert Williams, who also addressed the Senate briefly.

Senators Aikin, Rawlings, and Spears, severally, thanked Mr. Jourolmon and Judge Williams for their remarks expressing the friendship of Tennessee and Tennesseeans for the State of Texas and its citizens.

House Bill No. 62 on Second Reading

Senator Redditt moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 62 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Redditt and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 62 on Third Reading

Senator Redditt moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 62 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

Senate Resolution No. 12

Senator Brownlee, by unanimous consent, at this time, offered the following resolution:

Be it Resolved, That the Senate committee heretofore appointed under authority of Resolution No. 12, passed at the Regular Session, be and they are hereby authorized and directed to investigate the handling by the State Racing Commission of the fund known as the Jockey Fund, the collection and disposition of same, and to report their findings to the next Special Session of this

Legislature, or if there be no Special Session, to the next Regular Session thereof.

On motion of Senator Brownlee and by unanimous consent, the resolution was considered at this time and was adopted.

House Bill No. 44 on Second Reading

Senator Burns moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 44 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Burns and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time.

Senator Burns offered the following (committee) amendment to the bill:

Amend H. B. No. 44 by adding new section to be known as 2-C, to read as follows:

2-C. In all counties in the State of Texas having a population of not less than thirty (30,000) thousand, nor more than thirty thousand one hundred (30,100), according to the last preceding Federal Census, the salary of the county superintendent of public instruction shall be not less than Twenty-seven Hundred Fifty Dollars ($2750.00), nor more than Three Thousand Dollars ($3,000.00) per annum, the amount of which salary shall be fixed by the order of the County Board of Education for the respective county.

Section 1. In making the annual per capita apportionment to the public free schools, the County Board of Education of each such county mentioned in Section I of this Act shall also make an annual allowance out of the State and County Available School Fund not exceeding the sum of Three Thousand Dollars ($3,000.00) for the salary of the county superintendent of public instruction and Six Hundred Dollars ($600.00) for traveling expenses incidental to and necessary in the administration of the county superintendent's office annually, and the same shall be prorated to the schools in said county in proportion to the scholastic population of each school district in each of said respective counties, and the commissioners' court of each of said counties may expend out of the general fund of said county not to exceed Three Hundred Dollars ($300.00) per annum to defray the office expense for stamps, stationery, telephone and printing incidental to and necessary in the efficient administration of the schools in said counties respectively.

Sec. 2. The salary and traveling expenses provided for herein shall be paid monthly on the order of the County Board of Education; provided that the salary for the month of September shall not be paid until the county superintendent submits a certificate from the State Superintendent of Public Instruction showing that all reports required have been made to the State Department of Education. That the office expense provided herein shall be paid by the county treasurer on the order of the commissioners' court as said expenses may be incurred.

And amend the caption accordingly.

The (committee) amendment was adopted.

The bill was passed to third reading.

House Bill No. 44 on Third Reading

Senator Burns moved that the con-

stitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 44 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell.	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

Message From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: The House has granted the request of the Senate for the appointment of a conference committee on S. B. No. 20. The following are conferees on the part of the House:

Messrs. Keith, Morse, Moffett, Harris of Dallas, Knetsch.

The House has refused to concur in Senate amendments to H. B. No. 12, and requests the appointment of a conference committee to adjust the differences between the two Houses. The following are appointed on the part of the House:

Messrs. McKee, Monkhouse, Alexander, Kelt, Shell.

The House has granted the request of the Senate for the appointment of a conference committee on S. B. No. 19. The following are the conferees on the part of the House:

Messrs. Lucas, Loggins, Weldon, Bradbury, Powell.

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Senate Bill No. 25 With House Amendments

Senator Moore called up S. B. No. 25 from the President's table, for consideration of the House amendments to the bill.

The Presiding Officer laid the bill before the Senate, and the House amendments were read.

Senator Moore moved that the Senate concur in the House amendments.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

Report of Conference Committee on Senate Bill No. 2

Senator Van Zandt submitted the following report of the Conference Committee on S. B. No. 2:

Committee Room,
Austin, Texas, June 23, 1937.

Hon. Walter F. Woodul, President of the Senate;

Hon. Robert W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House on S. B. No. 2, beg leave to report that we have adjusted the differences and recommend the passage of S. B. No. 2 in the form attached hereto:

VAN ZANDT,
RAWLINGS,
WOODRUFF,
COLLIE,
BURNS,
On the part of the Senate.

REED of Bowie,
DAVISON of Fisher,
BROADFOOT,
JAMES,
BROWN,
On the part of the House.

By Van Zandt. S. B. No. 2.

A BILL
To Be Entitled

An Act defining and prohibiting the offenses of "book making" and of "pursuing the business of bookmaking"; making it unlawful to permit the use of certain property in connection with book making; prohibiting and regulating the use of certain methods of communication in connection with or in aid of book making; declaring certain property used in connection with book making to be a public nuisance and providing procedure for the abatement of that nuisance; authorizing conviction for any offense under this Act upon the uncorroborated testimony of an accomplice; and exempting from prosecution accomplices who testify; providing the quantum of proof and allegation upon trial of cases arising under this Act; prescribing penalties for a violation of the several provisions hereof; making the provisions of this Act cumulative of existing laws; providing that peace officers and other officers named herein may make arrests without warrants in certain instances; providing for the joinder of persons in indictment for the offenses herein and for joint indictment and joint trial for offenses under the Act and prescribing procedure relative thereto; providing a saving or severance clause; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Any person who takes or accepts or places for another a bet or wager of money or anything of value on a horse race, dog race, automobile race, motorcycle race or any other race of any kind whatsoever, football game, baseball game, athletic contest or sports event of whatsoever kind or character; or any person who offers to take or accept or place for another any such bet or wager; or any person who as an agent, servant or employee or otherwise, aids or encourages another to take or accept or place any such bet or wager; or any person who directly or indirectly authorizes, aids or encourages any agent, servant or employee or other person to take or accept or place or transmit any such bet or wager shall be guilty of book making and upon conviction be punished by confinement in the State Penitentiary for any term of years not less than one nor more than five or by confinement in the county jail for not less than ten (10) days nor more than one year and by a fine of not less than One Hundred ($100.00) Dollars nor more than One Thousand ($1,000.00) Dollars.

Sec. 2. Any person who shall within a period of one (1) year next preceding the filing of the indictment commit as many as three (3) acts which are prohibited under Section 1 of this Act shall be guilty of engaging in the business of book making and upon conviction shall be punished as provided in Section 1 of this Act.

Sec. 3. The term "pursuing the business of book making" within the meaning of Section 2 shall not be restricted to mean the primary or principal vocation or business of the defendant.

Sec. 4. Using Place for Book making.—Any owner, agent, lessor

or lessee of any real or personal property who shall knowingly use or knowingly permit such property to be used in connection with book making, as such term is herein defined, shall be guilty of a felony and upon conviction shall be punished as set forth under Section 1 of this Act.

Sec. 5. Use of Communication Methods in Aid of Bookmaking.—It shall be unlawful for any person or the agent, servant or empoyee of any person, corporation or association of persons, knowingly to furnish telephone, telegraph, teletype, teleprint or radio service or equipment; or to place the same on any property in this State used for the purpose prohibited by this Act or to assist in the violation of any of the provisions of this Act by the furnishing of any telephone, telegraph, teletype, teleprint or radio service or equipment. It shall also be unlawful for any person or association of persons or corporations knowingly to permit any telephone, telegraph, teletype, teleprint, radio or other means of communication whatever to remain on any property used for the purpose prohibited by this Act. Any person or association of persons or any corporation violating any provision of this Section shall be fined not less than One Hundred ($100.00) Dollars, nor more than One Thousand ($1,000.00) Dollars. No person or corporation engaged in the business of furnishing telephone, telegraph, teletype, teleprint, radio service or equipment to the public shall be liable in damages when it or they, in good faith, refuse to furnish telephone, telegraph, teletype, teleprint, radio service or equipment, or refuse to continue to do so, believing it to be used or it is used in violation of this Act, or where it or they refuse to furnish or to continue to furnish telephone, telegraph, teletype, teleprint, radio service or equipment after written notice from a grand jury, district attorney, county attorney, sheriff, chief of police, constable, any member of the State Highway Patrol or State ranger served by registered mail upon such person, corporation or association of persons, that the equipment of service furnished to a particular person, corporation or place is being furnished in violation of the provisions of this Act. After such notice has been given to any person or corporation engaged in the business of furnishing telephone, telegraph, teletype, teleprint, radio service or equipment to the public that such service or equipment is being used or is to be used in violation of this Act, the continued furnishing of such service or equipment shall be prima facie evidence of the knowledge of such person, corporation or association of persons that said property or premises are being used in violation of this Act.

Sec. 6. Any room, place, building, structure or property or the furniture, fixtures or paraphernalia of whatsoever kind or character used in connection with the offense of book making or pursuing the business of book making, as defined in this Act, are hereby declared to be public nuisances. Whenever the district attorney, criminal district attorney, county attorney or attorney general has reliable information that such a nuisance exists he shall file a suit in the name of the State in the county where the nuisance is alleged to exist to abate such nuisance. If judgment be in favor of the State, then judgment shall be rendered abating said nuisance and enjoining the defendant or defendants from maintaining the same and ordering the said premises to be closed for one year from date of said judgment, unless the defendants in said suit or the owner, tenant or lessee of said property, make bond payable to the State at the County seat of the county where such nuisance is alleged to exist in the penal sum of not less than One Thousand ($1,000.00) Dollars nor more than Five Thousand ($5,000.00) Dollars with good and sufficient sureties to be approved by the judge trying the case conditioned that the acts prohibited in this law shall not be done or permitted to be done in or upon said premises or the terms of the injunction violated. On the violation of any condition of such bond or injunction the whole sum may be recovered as a penalty in the name and for the State in the County where such conditions are violated, all such suits to be brought by the district attorney, criminal district attorney, county attorney of such county, or the attorney general of Texas.

Sec. 7. A conviction may be had

for the violation of any of the provisions of this Act upon the uncorroborated testimony of any accomplice; provided, further, that any party to a transaction prohibited by this Act may be required to furnish evidence and testify, but after so testifying such person shall be exempt from prosecution with reference to any transaction about which he is required to furnish evidence.

Sec. 8. Upon the trial for any offense under this Act it shall not be necessary that the State allege or prove that any race, game, contest or event was in fact run or did in fact happen or occur.

Sec. 9. For the violation of any of the provisions of this Act, 2 or more persons may be jointly indicted in single or multiple counts of the same indictment and at the election of the State be jointly tried; provided that upon any such joint trial the defendants may testify as witnesses for one another.

Sec. 10. It shall be the duty of all peace officers and all other officers named in this Act to arrest without warrant any and all persons violating any provision of this Act, whenever such violation shall be committed within the view of such officer or officers.

Sec. 11. The provisions of this Act shall be cumulative of all other existing articles of the penal code upon the same subject and in the event of a conflict between existing articles and the provisions of this Act then and in that event the provisions, offenses and punishments set forth herein shall prevail over such existing articles.

Sec. 12. If any clause, provision, requirement, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not invalidate the remainder of this Act; but shall be confined in its operation to the clause, provision, requirement or part thereof declared invalid.

Sec. 13. The fact that a Special Session of the 45th Legislature is now in session to consider the provisions set forth hereinabove creates an emergency and an imperative public necessity that the Constitutional Rule providing a bill to be read on three (3) several days in each House be suspended, and said rule is hereby suspended, and that this Act shall have effect and be in force from and after its passage, and it is so enacted.

House Bill No. 63 on First Reading

House Bill No. 63, received from the House today, was laid before the Senate, read first time, and referred to the Committee on Educational Affairs.

Senate Bill No. 13 With House Amendments

Senator Westerfeld called up S. B. No. 13 from the President's table, for consideration of the House amendments to the bill.

The Presiding Officer laid the bill before the Senate and the House amendments were read.

Senator Westerfeld moved that the Senate do not concur in the House amendments and that a free conference committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed.

House Bill No. 38 on Second Reading

Senator Westerfeld moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 38 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Westerfeld and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit further consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 38 on Third Reading

Senator Westerfeld moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 38 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

House Bill No. 30 on Second Reading

Senator Sulak moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 30 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Sulak and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 30 on Third Reading

Senator Sulak moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 30 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Holbrook
Beck	Isbell
Brownlee	Lemens
Burns	Moore
Collie	Neal
Cotten	Nelson
Davis	Newton
Hill	Oneal

Pace	Stone
Rawlings	Sulak
Redditt	Van Zandt
Roberts	Westerfeld
Small	Winfield
Spears	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

House Bill No. 25 on Second Reading

Senator Rawlings moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 25 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Neal
Beck	Nelson
Brownlee	Newton
Burns	Oneal
Collie	Pace
Cotten	Rawlings
Davis	Redditt
Hill	Roberts
Holbrook	Small
Isbell	Spears
Lemens	Stone
Moore	Sulak
Van Zandt	Winfield
Westerfeld	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Rawlings and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time.

Senator Rawlings offered the following (committee) amendment to the bill:

Amend H. B. No. 25, Section 1, line 5, by striking out the words and figures "Six Thousand Dollars ($6,000)," and insert in lieu thereof the words and figures "Forty-eight Hundred Dollars ($4800)."

The amendment was adopted.

Senator Westerfeld offered the following amendment to the bill:

Amend H. B. No. 25 by adding a new section as follows:

All county auditors in counties having a population of more than three hundred and twenty thousand (320,000) and less than three hundred and fifty thousand (350,000) persons by the last preceding Federal Census or any future Federal Census are hereby authorized, empowered and directed to make a complete audit of any and all moneys, property or funds of whatsoever kind or character received, expended or disposed of in any manner by the superintendent of public Instruction, the county board of trustees and/or county superintendent of schools in any such county. A copy of the auditor's report shall be filed with the commissioners' court and with the county or district attorney at the end of each fiscal year.

The amendment was adopted.

Senator Small offered the following amendment to the bill:

Amend H. B. No. 25 by adding a new section to be appropriately numbered and to read as follows:

Section — That Article 1645 of the Revised Civil Statutes of Texas of 1925, as amended by Chapter 15, Acts of the Forty-second Legisla-

ture Second Called Session, be and the same is hereby amended by adding a section thereto to be known as Article 1645D, which shall read as follows:

"Article 1645D. In all counties in this State having a population of not less than forty-five thousand (45,000) inhabitants nor more than fifty thousand (50,000) inhabitants, according to the last Federal Census, as same now exists or may hereafter exist, the county auditor shall receive an annual salary from county funds of Four Thousand Dollars ($4,000.00) to be paid in equal monthly installments out of the general revenues of the county."

The amendment was adopted.

Senator Brownlee offered the following amendment to the bill:

Amend H. B. No. 25 by adding a new section to be appropriately numbered and to read as follows:

Section — That Article 1645 of the Revised Civil Statutes of Texas of 1925, as amended by Chapter 15, Acts of the Forty-second Legislature, Second Called Session, be and the same is hereby amended by adding a section thereto to be known as Article 1645C, which shall read as follows:

"Article 1645C. In all counties in this State having a population of not less than seventy-seven thousand seven hundred (77,700) inhabitants nor more than eighty thousand (80,000) inhabitants, according to the last Federal Census, as same now exists or may hereafter exist, the county auditor shall receive an annual salary from county funds of Forty-two Hundred Dollars ($4200.00) to be paid in equal monthly installments out of the general revenues of the county."

The amendment was adopted.

On motion of Senator Rawlings, it was ordered that the caption be amended to conform to the body of the bill as amended.

The bill then was passed to third reading.

House Bill No. 25 on Third Reading

Senator Rawlings moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 25 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Newton
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

Absent—Excused

Head	Shivers
Oneal	Weinert

The Presiding Officer then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin	Newton
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

Absent—Excused

Head	Shivers
Oneal	Weinert

House Bill No. 45 on Second Reading

Senator Pace moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 45 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Pace and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 45 on Third Reading Reading

Senator Pace moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 45 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin	Newton
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Holbrook	Sulak
Isbell	Van Zandt
Lemens	Westerfeld
Moore	Winfield
Neal	Woodruff
Nelson	

Present—Not Voting

Oneal

Absent—Excused

Head	Weinert
Shivers	

Senator Pace moved to reconsider the vote by which the bill was passed and asked to have the motion to reconsider spread upon the Journal.

House Bill No. 63 on Second Reading

Senator Winfield moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 63 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Winfield and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 63 on Third Reading

Senator Winfield moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 63 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

Senate Resolution No. 13

Senator Westerfeld, by unanimous consent, offered the following resolution at this time:

Whereas, In addition to repeal of the race track law and anti-gambling laws, the First Called Session of the Legislature on adjournment will have passed many important local and corrective measures, the purport of which should be well known to all members of this body; therefore, be it

Resolved, That the Senate purchase forty (40) copies of Ray's Advance Session Laws of the First Called Session at One ($1.00) Dollar per copy, same to be paid for out of the Contingent Fund of the Senate.

The resolution was read, and by unanimous consent, it was considered at this time and was adopted.

Report of Conference Committee on Senate Bill No. 3

Senator Van Zandt submitted the report of the Conference Committee on S. B. No. 3.

(Note: The report, as submitted at this time, was later withdrawn and a revised report submitted.)

House Bill No. 33 on Second Reading

Senator Rawlings moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 33 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Neal
Beck	Nelson
Brownlee	Newton
Burns	Oneal
Collie	Pace
Cotten	Rawlings
Davis	Redditt
Hill	Roberts
Holbrook	Small
Isbell	Spears
Lemens	Stone
Moore	Sulak

Van Zandt
Westerfeld
Winfield
Woodruff

Absent—Excused

Head
Shivers
Weinert

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Rawlings and by unanimous consent, Senate Rules 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 33 on Third Reading

Senator Rawlings moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 33 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin
Beck
Brownlee
Burns
Collie
Cotten
Davis
Hill
Holbrook
Isbell
Lemens
Moore
Neal
Nelson
Newton
Oneal
Pace
Rawlings
Redditt
Roberts
Small
Spears
Stone
Sulak
Van Zandt
Westerfeld
Winfield
Woodruff

Absent—Excused

Head
Shivers
Weinert

The Presiding Officer then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin
Beck
Brownlee
Burns
Collie
Cotten
Davis
Hill
Holbrook
Isbell
Lemens
Moore
Neal
Nelson
Newton
Oneal
Pace
Rawlings
Redditt
Roberts
Small
Spears
Stone
Sulak
Van Zandt
Westerfeld
Winfield
Woodruff

Absent—Excused

Head
Shivers
Weinert

House Bill No. 68 on Second Reading

Senator Isbell moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 68 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—27

Aikin
Beck
Brownlee
Burns
Cotten
Davis
Hill
Holbrook
Isbell
Lemens
Moore
Neal
Nelson
Newton
Oneal
Pace
Rawlings
Redditt
Roberts
Small
Spears
Stone
Sulak
Van Zandt
Westerfeld
Winfield
Woodruff

Nays—1

Collie

Absent—Excused

Head
Shivers
Weinert

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Isbell and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 68 on Third Reading

Senator Isbell moved that the constitutional rule requiring bills to be read on three several days be sus-

pended and that H. B. No. 68 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Nays—1

Collie

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Nays—1

Collie

Absent—Excused

Head	Weinert
Shivers	

House Bill No. 50 on Second Reading

Senator Small moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 50 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate.

On motion of Senator Small and by unanimous consent, Senate Rule No. 31a and Senate Rule No. 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 50 on Third Reading

Senator Small moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 50 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

The Presiding Officer then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Holbrook	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff

Absent—Excused

Head	Weinert
Shivers	

Conference Committee on House Bill No. 12

Senator Van Zandt moved that the request of the House for a conference committee to adjust the differences between the two Houses on H. B. No. 12 be granted.

The motion prevailed.

Accordingly, the Presiding Officer announced the appointment of the following conference committee on the bill on the part of the Senate:

Senators Van Zandt, Lemens, Sulak, Woodruff and Neal.

Recess

On motion of Senator Oneal, the Senate, at 12:15 o'clock p. m., took recess to 2:30 o'clock p. m. today.

Afternoon Session

The Senate met at 2:30 o'clock p. m. and was called to order by the President.

House Bill No. 55 on Second Reading

Senator Spears moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 55 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

The President then laid the bill before the Senate.

On motion of Senator Spears and by unanimous consent, Senate Rules Nos. 48 and 31a were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 55 on Third Reading

Senator Spears moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 55 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

At Ease

On motion of Senator Pace, the Senate, at 2:35 o'clock p. m., stood at ease subject to the call of the President.

The Senate was called to order at 2:50 o'clock p. m. by the President.

Resolutions Signed

The President signed in the presence of the Senate, after giving due notice thereof, the following enrolled resolutions:

H. C. R. No. 27, Interpreting the legislative intent in regard to the residential requirements in the Old Age Assistance Law.

H. C. R. No. 28, Requesting the Federal Communications Commission to increase the allotment of power to radio station KGKL in San Angelo, Texas.

House Bill No. 47 on Second Reading

Senator Spears moved to suspend the constitutional rule requiring bills to be read on three several days and that H. B. No. 47 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

The President then laid the bill before the Senate.

On motion of Senator Spears and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 47 on Third Reading

Senator Spears moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 47 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

Message From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 69, A bill to be entitled "An Act to amend Article 305, Revised Civil Statutes, 1925, pertaining to candidates applying for examination to practice law; fixing the educational qualifications for applicants for examination; authorizing the Board to waive certain rules of the Supreme Court; providing for liberal construction of certain provisions of this Act; authorizing recommendation of local bar associations in connection with the examination of applicants; providing for recommendations where no bar association exists in county of residence of applicant; and making such recommendation to prevail, and declaring an emergency."

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

House Bill No. 69 on First Reading

H. B. No. 69, received from the House today was laid before the Senate, read first time, and referred to the Committee on Civil Jurisprudence.

Conference Committee on Senate Bill No. 13

The President announced the appointment of the following committee on the part of the Senate to adjust the differences between the two Houses on S. B. No. 13:

Senators Westerfeld, Moore, Pace, Cotten, and Newton.

Message From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has concurred in Senate Amendments to H. B. No. 25 by a vote of 103 yeas and 2 nays.

The House has passed the following bill and resolution:

H. B. No. 40, A bill to be entitled "An Act providing an open season for taking mourning doves and white winged doves in the State of Texas; providing a bag limit and possession limit for such birds; providing the means by which same may be taken; and declaring an emergency."

S. C. R. No. 8, Relating to State exhibits at New York World's Fair and Golden Gate Exposition.

A point of order that the following bill does not come within the Governor's call has been sustained:

H. B. No. 49, A bill to be entitled "An Act amending Article 3935 Revised Civil Statutes of Texas, adopted at the Regular Session of the Thirty-ninth Legislature, 1925, providing for certain fees of office for Justices of the Peace; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Report of Standing Committee

By unanimous consent, the report on H. B. No. 40 was submitted by the chairman of the committee to

which it was referred. (See appendix for report in full.)

House Bill No. 57 on Second Reading

Senator Aikin moved to suspend the constitutional rule requiring bills to be read on three several days and that H. B. No. 57 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

The President then laid the bill before the Senate.

On motion of Senator Aikin and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 57 on Third Reading

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 57 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Hill
Beck	Isbell
Brownlee	Lemens
Burns	Moore
Collie	Neal
Cotten	Nelson
Davis	Newton
Oneal	Stone
Pace	Sulak
Rawlings	Van Zandt
Redditt	Westerfeld
Roberts	Winfield
Small	Woodruff
Spears	

Absent—Excused

Head	Shivers
Holbrook	Weinert

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

House Bill No. 65 on Passage to Third Reading

Senator Woodruff called up H. B. No. 65 from the Presidents table for further consideration at this time; the bill having been read second time today and tabled subject to call.

The President laid the bill before the Senate on its passage to third reading.

The bill then was passed to third reading.

House Bill No. 65 on Third Reading

Senator Woodruff moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 65 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas- -27

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Lemens	Van Zandt
Moore	Westerfeld
Neal	Winfield
Nelson	Woodruff
Newton	

Absent—Excused

Head	Shivers
Holbrook	Weinert

Senate Concurrent Resolution No. 9

Senator Cotten, by unanimous consent, offered the following resolution at this time:

Whereas, The Forty-fifth Legislature in Regular Session passed Senate Bill No. 185, which said bill appropriated Five Million Five Hundred Thousand ($5,500,000.00) Dollars annually for promoting public school interest and equalizing the educational opportunities afforded by the State to all children of scholastic age within the State; and

Whereas, The said bill contained the following provision, to-wit:

"and providing further that high school tuition of not to exceed Two Dollars and 50/100 ($2.50) Dollars per scholastic shall be granted for pupils in consolidated and rural high school districts composed of not less than three (3) original districts, and whose valuation is less than Fifteen Hundred ($1,500.00) Dollars per scholastic population, and whose budget shows a need therefor, and that maintains an affiliated high school of not less than sixteen (16) units"; and

Whereas, Said above quoted section provides for Two and 50/100 ($2.50) Dollars per scholastic and does not state whether said Two and 50/100 ($2.50) Dollars per scholastic is to be payable per annum or per month; and

Whereas, It was the intention of the Legislature to provide that said sum of Two and 50/100 ($2.50) Dollars should be paid each scholastic month; therefore, be it

Resolved, by the Senate of Texas, the House of Representatives concurring, That the disbursing agency of the State of Texas is hereby authorized and empowered under the conditions provided in said bill, to pay to said schools qualifying under said provisions, high school tuition of not to exceed Two and 50/100 ($2.50) Dollars per scholastic per month.

The resolution was read.

On motion of Senator Cotten and by unanimous consent, the rule requiring concurrent resolutions to be referred to a committee was suspended and the resolution considered at this time.

The resolution was adopted.

Report of Conference Committee on Senate Bill No. 2

Senators Van Zandt called up, for consideration at this time, the report of the Conference Committee on S. B. No. 2, relating to bookmaking, which report had been submitted heretofore.

The report was adopted by the following vote:

Yeas—22

Aikin	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Sulak
Isbell	Van Zandt
Moore	Westerfeld
Neal	Winfield
Newton	Woodruff

Absent

Beck	Spears
Nelson	Stone

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

Leave of Absence

Senator Lemens was granted leave of absence for this afternoon and tomorrow, on account of illness, on motion of Senator Aikin.

Report of Conference Committee on Senate Bill No. 20

Senator Small submitted the following report of the Conference Committee on S. B. No. 20:

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Hon. R. W. Calvert, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the House and the Senate on Senate Bill No. 20, beg leave to report that we have considered the same and recommend that it do pass in the form and text hereto attached.

SMALL,
BURNS,
ISBELL,
PACE,
SPEARS,
On the part of the Senate.

MORSE,
HARRIS of Dallas,
KEITH,
KNETSCH,
MOFFETT,
On the part of the House.

S. B. No. 20.

A BILL

To Be Entitled

An Act amending Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature providing for the issuance of certain permits by the Texas Liquor Control Board and defining the privileges to be exercised thereunder; further providing certain and definite procedure in applying for permits and licenses; further regulating the traffic in alcoholic beverages in this State and prescribing penalties for violations thereof; providing the Texas Liquor Control Board and its representatives with additional powers to administer the provisions of the Texas Liquor Control Act; providing for certain issues to be submitted at local option elections; providing for the procedure in hearings before the Board or Administrator and in appealing from decisions of the Board or Administrator; providing cities, towns, and counties to regulate the sale of beer in certain areas; further providing for the making and keeping of records by licensees and permittees and providing penalties therefor; further defining offenses under the Texas Liquor Control Act and prescribing penalties; amending Sections 15(8), 15(12), 15(16), 15(c)(2), 17(4), 17(6), 21(c), 40, 23(a)2, and 25(a) all of Article I and Sections 3(h), 3-b, 7(d), 7(e), 9, 19, 20, 22, and 26 of Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted and amended by Sections 16-15(8), 16-15(12), 16-15(16), 19-15(c)(2), 22-17(4), 22-17(6), 29-21(c), 30(a)-40, 31-25(a)-2, 33-25(a), 49-3(h), 49-3-b, 49 7(d), 49-7(c), 49-9, 49-19, 49-20, 49-22, and 49-26, respectively of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature; adding thereto a new section to be known as Section 10½ of Article II; fixing the effective date of this Act and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Subdivision 8 under Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 16, Article I, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"(8). Package Store Permit. A package store permit shall authorize the holder thereof to:

"(a). Purchase liquor from the holders in this State of Winery, Wholesaler's, Class B Wholesaler's, and Wine Bottler's permits;

"(b). Sell on or from licensed premises at retail to consumer for off-premises consumption only and in unbroken packages and unbroken containers only;

"(c). Sell malt and vinous liquors in original containers of not less than six (6) ounces;

"(d). Sell vinous liquors but in quantities of not more than five (5) gallons in original containers in any single transaction;

"(e). Any person holding more than one package store permit may designate one of the licensed premises as the place for storage of liquor and he shall be privileged to transfer liquor from such storage to his other licensed premises under such rules as shall be prescribed by the Board.

"The annual fee for a package store in cities and towns shall be based upon the population according to the last preceding Federal Census as follows:

Population	Fee
25,000 or less	$125.00
25,001 to 75,000	175.00
75,001 or more	250.00

"The annual fee for a package store outside of cities and towns shall be One Hundred and Twenty-five Dollars ($125.00), except the annual fee for a package store outside of any incorporated city or town and within two (2) miles of the corporate limits shall be the same as the fee required in said incorporated city or town.

"The annual fee for a package store to sell wine only in cities and towns shall be based on population according to the last preceding Federal Census as follows:

Population	Fee
2,000 or less	$ 5.00
2,001 to 5,000	7.50
5,0001 to 10,000	10.00
10,000 or more	12.50

"The annual fee for a package store to sell wine only outside of cities and towns shall be Five Dollars ($5)."

Sec. 2. That Sub-division 12 under Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 16-15(12), Article I, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"(12). Private Carrier Permit. Brewers, distillers, wineries, rectifiers, wholesalers, Class B wholesalers, and wine bottlers permittees shall be entitled to transport liquor from the place of sale or distribution o the purchaser, upon vehicles owned in good faith by such permittees when such transportation is for a lawful purpose; provided, however, that such permittees shall not be permitted to engage in the business of transporting for hire such liquor in violation of the motor carrier laws of this State, and any such permittee desiring to engage in such business for hire shall first secure a certificate or permit, as the case may be, from the Railroad Commission of Texas under the terms of the motor carrier laws, and shall be required to comply with the provisions of such laws. Motor vehicles used for such transportation shall be fully described in the application for a private carrier permit and such application shall contain all information which shall be required by the Board. All vehicles used for such transportation within the State by such permittees shall have printed or painted on said vehicles such designation as may be required by the Board.

"It shall be unlawful for any such permittee above named to transport liquor in any vehicle not fully described in his application for a permit.

"The annual fee for such permit shall be Five Dollars ($5)."

Sec. 3. That subdivision 16 under Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as

amended by Section 16, Article I, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"(16). Wine and Beer Retailer's Permit. The Board is authorized to issue Wine and Beer Retailer's Permits. The holders of such permits shall be authorized to sell for consumption on or off the premises where sold, but not for resale, vinous and malt beverages containing alcohol in excess of one-half of one per cent by volume and not more than fourteen (14) per cent of alcohol by volume. All such permits shall be applied for and issued, unless denied, and fees paid upon the same procedure and in the same manner and upon the same facts and under the same circumstances, and for the same duration of time, and shall be renewable in the same manner, as required and provided to govern application for an issuance of Retail Beer Dealer's Licenses under Article II of this Act, and shall be subject to cancellation or suspension for any of the reasons that a Retail Beer Dealer's License may be cancelled or suspended, and upon the same procedure. The holders of Wine and Beer Retailer's Permits shall also be subject to all provisions of Section 22, Article II of this Act. All alcoholic beverages which the holders of such permits are authorized to sell may be sold with the same restrictions as provided in Article II governing the sale of beer, as to prohibited hours, local restrictions, age of employees, installation or maintenance of barriers or blinds in openings or doors, prohibition of the use of the word 'saloon' in the signs or advertising, and subject to the same restrictions upon consumption of wine as provided for beer in the case of Retail Beer Dealers in Section 15 of Article II of this Act. For the violation of any applicable provisions of Article II, the holders of such permits shall be liable for penalties provided in Article II; for the violation of any other provision of this Act the holders of such permits shall be subject to penalties provided in Article I of this Act.

"The annual fee for such a permit shall be Thirty ($30.00) Dollars and shall be distributed in the manner provided for the distribution of fees derived under Article II of this Act; provided, however, that a Wine and Beer Retailer's Permit may be issued for a railway dining, buffet, or club car upon payment of a fee of Five ($5.00) Dollars for each car; provided, however, that application therefor and the payment of fee shall be made direct to the Board; and provided further that any such permit for a railway dining, buffet, or club car shall be inoperative in any dry area as the same is defined in this Act."

Sec. 4. That subsection (2) of Section 15 (e), Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 19, Article I, House Bill No. 5, Acts of the Forty-fifth Legislature be amended so that the same shall hereafter read as follows:

"(2). All applications for permits and licenses as provided in this Act shall be sworn to before any person who is authorized by law to administer an oath. All applications for permits for the year beginning September 1, 1937, and succeeding years shall be made on forms furnished by the Board. Such forms shall require of each applicant all information demanded by the provisions of this Act. For succeeding permit years, the Board is authorized to grant permits to applicants, who were permit holders for the previous period or a part thereof, upon filing with the Board a statement in affidavit form, that the facts and representations in the application on file are true and correct; provided however, that the Board or administrator shall have the power to require any other additional information. Forms for such affidavit shall be furnished by the Board. For succeeding permit years, after the one beginning September 1, 1937, any applicant for a permit who is privileged to procure a permit upon filing of the affidavit as hereinbefore set out, shall not be required to again publish notices as is required of original applicants, but upon payment of the proper fee and the filing of the proper bond and affidavit, the Board is authorized to issue such permit."

Sec. 5. That subsection (4), of Section 17, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 22, Article I,

House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"(4). It shall be unlawful for any person operating under a permit under Article I of this Act to refuse to allow the Board, or any authorized representative of said Board, or any peace officer upon request to make a full inspection or investigation of the licensed premises."

Sec. 6. That subsection (6) of Section 17, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 22, Article I, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"(6). It shall be unlawful for any person who holds a permit under Article I of this Act to contribute any money or any thing of value toward the campaign expenses of any candidate for any office in this State."

Sec. 7. That section 21(c), Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 29, Article I, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"Sec. 21(c). Each holder of a permit under Article I of this Act who distills, rectifies, manufactures or receives any liquor shall make and keep a record of each day's production or receipt of liquor, the amount of tax stamps purchased by him, and each such permit holder other than a retailer shall make and keep a record of each and every sale of liquor and to whom such sale is made. Entry of each such transaction shall be made on the day it occurs. All such permittees shall make and keep such other records as may be required by rule and regulation of the Board. All records which permittees are required to make shall be kept available for the inspection of the Board or its authorized representatives for a period of at least two years.

"It shall be unlawful for any person to fail or refuse to make and keep for a period of at least two years any record required in this section, or to fail or refuse to keep such records open for inspection to the Board or its duly authorized representatives during reasonable office hours.

"It shall further be unlawful for any person knowingly with intent to defraud to make or cause to be made any false entry in any records required in this section or with like intent to alter or cause to be altered any item in said records."

Sec. 8. That Section 40, Article I, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 30 (a), of Article I, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be amended so that the same shall hereafter read as follows:

"Sec. 40. The Commissioners' Court upon its own motion may, or upon petition as herein provided, shall, as provided in Section 32, Article I, order local option elections for the purpose of determining whether alcoholic beverages of the various types and alcoholic contents herein provided shall be legalized or prohibited.

"In areas where any type or classification of alcoholic beverages is prohibited and the issue or issues submitted pertain to legalization of the sale of one or more such prohibited types or classifications, one or more of the following issues shall be submitted:

"(a). 'For legalizing the sale of beer that does not contain alcohol in excess of four (4%) per centum by weight' and 'Against legalizing the sale of beer that does not contain alcohol in excess of four (4%) per centum by weight.'

"(b). 'For legalizing the sale of malt and vinous beverages that do not contain alcohol in excess of fourteen (14%) per centum by volume and 'Against legalizing the sale of malt and vinous beverages that do not contain alcohol in excess of fourteen (14%) per centum by volume."

"(c). 'For legalizing the sale of all alcoholic beverages' and 'Against legalizing the sale of all alcoholic beverages.'

"In areas where the sale of all alcoholic beverages has been legalized one or more of the following issues shall be submitted in any prohibitory election:

"(d). 'For prohibiting the sale of all beverages that contain alcohol in excess of four (4%) per centum

by weight' and 'Against prohibiting the sale of all beverages that contain alcohol in excess of four (4%) per centum by weight.'

"(e). 'For prohibiting the sale of all alcoholic beverages that contain alcohol in excess of fourteen (14%) per centum by volume' and 'Against prohibiting the sale of all alcoholic beverages that contain alcohol in excess of fourteen (14%) per centum by volume.'

"(f). 'For prohibiting the sale of all alcoholic beverages' and 'Against prohibiting the sale of all alcoholic beverages.'

"In areas where the sale of beverages containing alcohol not in excess of fourteen (14%) per centum by volume has been legalized, and those of higher alcoholic content are prohibited, one or more of the following issues shall be submitted in any prohibitory election:

"(g). 'For prohibiting the sale of alcoholic beverages that contain alcohol in excess of four (4%) per centum by weight' and 'Against prohibiting the sale of alcoholic beverages that contain alcohol in excess of four (4%) per centum by weight.'

"(h). 'For prohibiting the sale of all alcoholic beverages' and 'Against prohibiting the sale of all alcoholic beverages.'

"In areas where the sale of beer containing alcohol not exceeding four (4%) per centum by weight has been legalized and all other alcoholic beverages are prohibited, the following issue shall be submitted in any prohibitory election:

"(i). 'For prohibiting the sale of beer containing alcohol not exceeding four (4%) per centum by weight,' and 'Against prohibiting the sale of beer containing alcohol not exceeding four (4%) per centum by weight.'

"Where more than one issue is submitted on a single ballot no ballot shall be counted unless the voter shall vote upon each of the issues appearing on any such ballot; and each such ballot shall have printed thereon the words 'This ballot will not be counted unless the voter shall vote upon each of the issues appearing hereon.'"

Sec. 9. That subsection 2 of Section 23 (a), Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as amended by Section 31, Article 1 of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so that the same shall hereafter read as follows:

"(2). Possession of more than one quart of liquor in a dry area shall be prima facie evidence that it is possessed for the purpose of sale."

Sec. 10. That Section 25 (a) of Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 33-25 (a) of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so that the same shall hereafter read as follows:

"Sec. 25 (a). The Commissioners' Court of any county in the territory thereof outside incorporated cities and towns and the governing authorities of any city or town within the corporate limits of any such city or town may prohibit the sale of alcoholic beverages by any dealer where the place of business of any such dealer is within three hundred (300) feet of any church, public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in direct line across intersections where they occur.

Sec. 11. That subsection (h) of Section 3, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49-3(h), of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so that the same shall hereafter read as follows:

"(h). The holder of a Manufacturer's License or a Distributor's License shall be authorized to maintain or engage necessary warehouses, for storage purposes only in areas where the sale of beer is lawful from which deliveries may be made without such warehouses being licensed, except when such a warehouse is a premise to which importations of beer are made from outside the State. Any warehouse in which sales orders for beer are taken or money therefor collected shall be deemed a separate place of business for which a license is required. The sale and delivery of beer from a truck of a licensed Manufacturer or

Distributor to a licensed retail dealer at the latter's place of business shall not constitute such truck to be a separate place of business. The Board shall govern by rule and regulation, the transportation of such beer, the sale of which is to be consummated at the licensed Retailer's place of business."

Sec. 12. That Section 3-b, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49-3-b, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"Sec. 3-b. It is provided that any person may import tax paid beer into this State for his own personal use but in any one day he shall not import more than one case containing twenty-four (24) bottles having a capacity of not exceeding twelve (12) ounces each, or not exceeding the equivalent thereof if contained in any other kind of container.

"It is also provided that any railroad company operating in this State may import beer owned by such railroad company into this State in such quantities as are necessary to meet the demands of the traveling public while traveling on trains operated by such railroad company, provided, however, no beer shall be sold or served in a dry area."

Sec. 13. That subsection (d) of Section 7, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49-7(d), House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"(d). No license issued under the provisions of this Article shall be assignable by the holder thereof to any other person; provided, that should any holder of a license desire to change the place of business designated in such license, he may do so by applying to the County Judge and receiving his consent or approval as in the case of original application for license as herein provided and without being required to pay additional license fees for the remaining unexpired term of the license held by him."

Sec. 14. That subsection (e), of Section 7, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49-7(e), House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"(e). No licensee shall obtain any refund upon the surrender or non-use of any license for the manufacture, distribution, importation, or sale of beer except as provided in Section 18 of this Article."

Sec. 15. That Section 9, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49-9, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so as to hereafter read as follows:

"Sec. 9. Every holder of a Manufacturer's or Distributor's license shall make and keep a record of each day's production or receipt of beer, the amount of stamps purchased by him, and the amount of stamps used by him; and every holder of a Manufacturer's or Distributor's License shall make and keep a record of each and every sale of beer and to whom such sale is made, and entry of every transaction shall be made on the day it occurs; and all such licensees shall make and keep such other records as may be required to be made by the Board or Administrator. All records which licensees are required to make shall be kept available for the inspection of the Board or its authorized representatives for a period of at least two years. It shall be unlawful for any person to fail to make records as required herein or fail to keep for a period of at least two years such records open for inspection to the Board or its duly authorized representatives during reasonable office hours, or to make any false entry or fail to make any entry as herein provided.

Sec. 16. That Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49 of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended by adding a new section to be known as Section 10½, Article II, which shall read as follows:

"Sec. 10½. In any incorporated city or town where the sale of beer

as defined in the Texas Liquor Control Act is prohibited by charter or amendments thereto or by any ordinance from being sold in the residential section, such charter amendments or ordinances shall remain valid and continue effective until such time as such charter provisions, amendments or ordinances may be repealed or amended.

"All incorporated cities and towns are hereby authorized to regulate the sale of beer within the corporate limits of such cities and towns by charter amendment or ordinance and may thereby prescribe the opening and closing hours for such sales; such cities and towns may also designate certain zones in the residential section or sections of said cities and towns where such regulations for opening and closing hours for the sale of beer shall be observed or where such sales may be prohibited."

Sec. 17. That Section 19 of Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49-19 of House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature be amended so that the same shall hereafter read as follows:

"Sec. 19. The Board or Administrator shall have the power and authority to cancel the license of any person authorized to sell beer after notice and hearing as herein provided upon finding that the licensee has:

"1. If a Retailer:

"(a) Knowingly sold beer to any person under the age of twenty-one (21) years; or

"(b) Sold beer to any person showing evidence of intoxication; or

"(c) Sold beer during any hours when such sale was forbidden by law; or

"(d) Possessed or permitted to be possessed by his agents or servants (except as to hotels authorized to sell distilled spirits) on premises covered by his license or on premises adjacent thereto and directly or indirectly under his control any alcoholic beverage that he is not authorized by law to sell at the place of business covered by the license sought to be cancelled by the Board or Administrator; or

"(e) Permitted at his place of business any conduct by any person whatsoever that is lewd, immoral, or offensive to public decency; or

"(f) Employed any person under the age of eighteen (18) years to sell, handle, or dispense or to assist in selling, handling, or dispensing beer in any establishment where beer is sold at retail to be consumed on the premises where sold; or

"(g) Made any false or untrue statements in his application for license; or

"(h) Conspired with any person to violate any of the provisions of Section 24 of this Article or accepted the benefits of any act prohibited by such Section; or

"(i) Refused to permit or interfere with an inspection of the licensed premises by any authorized representative of the Board; or

"(j) Contributed money or other thing of value toward the campaign expenses of any candidate for office; or

"(k) Permitted his license to be used in the operation of a business conducted for the benefit of any person not authorized by law to have an interest in said license; or

"(l) Maintained blinds or barriers at his place of business in violation of the law; or that

"(m) Such licensee (or, if a corporation, any officer thereof) is financially interested in any place of business engaged in the selling of distilled spirits or has permitted any other person who has a financial interest in any place of business engaged in the sale of distilled spirits to be interested financially in the business authorized by the license sought to be cancelled; or

"(n) That the holder of the license sought to be cancelled (or, if a corporation, any officer thereof) is residentially domiciled with or so related to any person engaged in the sale of distilled spirits that there is a community of interest which the Board or Administrator may deem inimicable to the purposes of this Act, or is so related to any person in whose name any license has been cancelled or revoked within the twelve (12) months next preceding any date fixed by the Board or Administrator for hearing upon a mo-

tion to cancel or revoke the existing license; or

"(o) That the licensee has violated any provision of this Act or any rule or regulation of the Board at any time during the existence of the license sought to be cancelled or within the next preceding license period of any license held by the licensee;

"(p) In addition to the causes for cancellation hereinbefore set out, the Board or Administrator shall cancel the license of any retailer upon satisfactory proof that the licensee has been finally convicted for the violation of any penal provisions of this Article.

"Provided, however, that no license authorizing the retail sale of beer in a hotel shall be cancelled for the causes specified in the foregoing paragraphs (m) and (n) in those cases where there is a place of business authorized to sell distilled spirits in unbroken packages on premises of the hotel other than that part of such premises covered by the retail Beer Dealer's License.

"2. If a Distributor:

"(a) Violated any of the provisions of Section 24 of this Article; or

"(b) Imported into this State any beer without first having obtained a Distributor's License; or

"(c) Failed to comply with all lawful requirements of the Board as to keeping of records and making of reports; or

"(d) Failed to pay any taxes due to the State as provided in this Article on any beer sold, stored, or transported by the licensee; or

"(e) Refused to permit or interfere with an inspection of his licensed premises or books and records by any authorized representative of the Board; or

"(f) Consumated any sales of beer outside the county or counties in which his license authorizes him to sell; or

"(g) That the licensee has violated any provisions of this Act or any rule or regulation of the Board at any time during the existence of the license sought to be cancelled or within the preceding license period of any license held by the licensee.

"3. If a Manufacturer:

"The Board or Administrator shall have the power and authority to suspend after notice and hearing the license of any manufacturer to sell beer in this State, when such licensee does business in violation of the provisions of this Act or rules and regulations of the Board, until said licensee obeys all lawful orders of the Board or Administrator requiring such licensee to cease and desist from such violations.

"Any act of omission or commission enumerated herein as cause for the cancellation or suspension of any type of license shall also be a violation of this Act and subject to the penalties provided in Section 26 of this Article, provided, however, that the penalty for the making of any false or untrue statements in any application for licenses or in any statement, report or other instrument to be filed with the Board and which is required to be sworn to shall be as is provided in Section 17 (a)-(2) of Article I of this Act."

Sec. 18. That Section 20, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49-20, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature as amended so that the same shall hereafter read as follows:

"Sec. 20. The Board or Administrator shall have the power and authority upon its own motion, and it is hereby made its duty upon petition of any County Judge, County Attorney or Sheriff of a county or the Mayor or Chief of police of any incorporated city or town wherein may be located the place of business of the licensee complained of in such petition to fix a date for hearing and give notice thereof to any licensee complained of for the purpose of determining whether or not the license of such licensee is to be cancelled by the Board and notify such licensee that he may appear to show cause why such license should not be cancelled or revoked. The Board or Administrator is authorized and empowered to cancel the license of any licensee upon determining after hearing that the holder thereof has given cause for such cancellation in any manner enumerated in Section 19 of this Article."

Sec. 19. That Section 22, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49-22, House Bill No. 5, Acts of the Regular Session of the Forty-fifth

Legislature be amended so that the same shall hereafter read as follows:

"Sec. 22. Any order of the Board or Administrator cancelling a license shall have the effect that it shall immediately be unlawful, after notice thereof is given, for the holder of such cancelled license to sell beer for a period of one year thereafter except during the period that the order of cancellation is superseded pending trial, or unless he shall prevail in any final judgment, rendered upon appeal as herein provided. Appeals from decisions or orders of the Board or Administrator cancelling or refusing a license may be had under the same conditions and provisions prescribed in Section 14 of Article I of this Act.

"No appeal shall lie from an order of suspension of license. No suit of any nature shall be maintained in any Court in this State seeking to restrain the Board or Administrator or any other officer from enforcing any order of suspension issued by the Board or Administrator; and if at any hearing thereon it be shown to the satisfaction of the Board or Administrator that any alcoholic beverage was sold on or from the premises covered by a license during the period of suspension, then such proof shall be sufficient to warrant cancellation of the license.

"The cancellation or suspension of any license shall not excuse nor relieve the violator from the penalties provided in this Article."

Sec. 20. That Section 26, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature as enacted by Section 49-26, House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature as amended so that the same shall hereafter read as follows:

"Sec. 26. Any person who violates any provision of this Article shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five ($25.00) Dollars nor more than Five Hundred ($500.00) Dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

"It is provided, however, that in cases where the Administrator or the Board in writing recommends acceptance of a plea of guilty, and such plea is accepted, the decree of the court and assessment of penalty shall not require cancellation of a license as provided in Section 19(p) of this Article, but shall leave the question of cancellation of license in such cases to the discretion of the Board or Administrator, having in mind the purposes of this Act."

Sec. 21. The fact that the present Texas Liquor Control Act is inadequate to deal with many phases of alcoholic beverage control, and the further fact that there exist some conditions requiring immediate correction in the public interest and the further fact that the Texas Liquor Control Act as amended becomes effective on September 1, 1937, create an emergency and an imperative necessity that the Constitutional Rule, requiring that all bills be read on three several days in each House, be suspended, and such Rule is hereby suspended, and this Act shall take effect and be in force on and after September 1, 1937, and it is so enacted.

The report was adopted by the following vote:

Yeas—20

Aikin	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Isbell	Van Zandt
Neal	Winfield
Newton	Woodruff

Nays—2

Moore	Sulak

Absent

Beck	Stone
Nelson	Westerfeld

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

Motion to Reconsider

Senator Small moved to reconsider the vote by which the report was adopted and asked to have the

motion to reconsider spread upon the Journal.

Call of the Senate

Senator Collie raised a question as to the presence of a quorum.

The Secretary was directed to call the roll of the Senate to ascertain whether there was a quorum present.

The roll was called and 14 Senators answered to their names.

Senator Collie moved a call of the Senate to secure and maintain a quorum till 5:00 o'clock p. m. today, and the call was duly seconded.

The following Senators subsequently appeared in the Senate Chamber and were recorded present:

Senators Davis, Oneal, Redditt, Small, Spears, Westerfeld, Nelson, Winfield and Woodruff.

A quorum was announced present.

Report of Conference Committee on Senate Bill No. 3

Senator Van Zandt called up for consideration at this time the report of the conference committee on S. B. No. 3, which report had been submitted heretofore today.

Question: Shall the report be adopted?

On motion of Senator Van Zandt, and by unanimous consent, the report as submitted was withdrawn from further consideration by the Senate.

House Bill No. 45 on Final Passage

Senator Pace called up, for consideration at this time, the motion to reconsider the vote by which H. B. No. 45 was passed today, the motion having been made duly and spread upon the Journal.

The motion to reconsider prevailed.

The President laid the bill before the Senate, on its final passage.

Senator Pace offered the following amendment to the bill:

Amend H. B. No. 45, by striking out all below the enacting clause and inserting in lieu thereof the following:

"Section 1. That Article 793, Title 9, Chapter 4, Code of Criminal Procedure, 1925, of the State of Texas, be amended so as to hereafter read as follows:

"Art. 793—Fine Discharged—When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding article, or if there be no such workhouse, farm or improvements, he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such labor or imprisonment at Three Dollars ($3.00) for each day thereof; provided, however, that in all counties in this State containing a population of not less than Twenty-four Thousand One Hundred Eighty (24, 180), nor more than Twenty-four Thousand Two Hundred (24,200) or in any counties containing a population of not less than Forty-one Thousand (41,000) and not more than Forty-two Thousand (42,000), according to the last preceding Federal Census, when a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the workhouse, or on the county farm, or public improvements of the county, as provided in the succeeding article, or if there be no such workhouse, farm or improvements, he shall be imprisoned in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him, rating such labor and imprisonment at not less than One Dollar ($1.00) per day nor more than Three Dollars ($3.00) per day.

"The Commissioners Court of each county as defined by population brackets above in this State, at any regular or special term, shall, by order made and entered in the minutes of said Court, determine the rate of wages to be paid convicts in their respective counties for labor or imprisonment per day in accordance herewith.

"Sec. 2. The fact that some coun-

ties in Texas are forced under existing law to pay more for the labor of convicts in workhouses, county farms, or public improvements, than is the prevailing wage scale in such counties for the same class of labor, and, due to such rate, operate such workhouses, county farms, and public improvements at a loss, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House, be and the same is hereby suspended, and this Act shall take effect and be in full force from and after its passage, and it is so enacted.

Senator Sulak offered the following amendment to the amendment:

Amend Pace amendment to H. B. No. 45 by inserting after the last population bracket the following:

"In counties population of not less than 30,707 nor more than 30,709; and in counties containing a population of not less than 27,549 nor more than 27,551; and in counties containing a population of not less than 19,128 nor more than 19,130; and in counties containing a population of not less than 18,859 nor more than 18,661; and in counties containing a population of not less than 10,013 nor more than 10,015.

The amendment to the amendment was adopted.

The amendment as amended was adopted by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

Senator Pace offered the following amendment to the bill:

Amend H. B. No. 45 as amended so as to include all counties having a population of not less than 43,030 and not more than 43,050; and all counties having a population of not less than 37,286 and not more than 37,290; and all counties having a population of not less than 7100 nor more than 7150 according to the last preceding Federal Census.

PACE for LEMENS, ISBELL.

The amendment was adopted unanimously.

Senator Pace offered the following amendment to the bill:

Amendment No. 2

Amend House Bill No. 45 by striking out all above the enacting clause and inserting in lieu thereof the following:

"H. B. No. 45.

A BILL

To Be Entitled

An Act amending Article 793, Title 9, Chapter 4, Code of Criminal Procedure of Texas, 1925, authorizing the Commissioners Court of counties having a population of not less than Twenty-four Thousand One Hundred Eighty (24,180) nor more than Twenty-four Thousand Two Hundred (24,200) or in any county containing a population of not less than Forty-one Thousand (41,000) and not more than Forty-two Thousand (42,000), or in counties having a population of not less than 43,030 nor more than 43,050; or having a population of not less than 37,286 nor more than 37,290; or having a population of not less than 7100 nor more than 7150, according to the last preceding Federal Census, to fix the rate of wages to be paid county convicts committed to workhouse, county farm, or public improvements at an amount per day of not less than One Dollar ($1.00) per day nor more than Three Dollars ($3.00) per day, and declaring an emergency."

The amendment was adopted unanimously.

The bill then was passed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

House Bill No. 36 on Second Reading

Senator Davis moved to suspend the constitutional rule requiring bills to be read on three several days and that H. B. No. 36 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

The President then laid the bill before the Senate.

On motion of Senator Davis and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

Report of Conference Committee on Senate Bill No. 20

Senator Small called up, for consideration at this time, the motion to reconsider the vote by which the report of the Conference Committee on S. B. No. 20 was adopted.

The motion to reconsider prevailed.

Question recurred—Shall the report be adopted?

The report then was adopted by the following vote:

Yeas—21

Aikin	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Van Zandt
Isbell	Westerfeld
Neal	Winfield
Newton	Woodruff
Oneal	

Nays—2

Moore	Sulak

Absent

Beck	Stone
Nelson	

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

House Bill No. 36 on Third Reading

Senator Davis moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 36 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	Isbell
Beck	Moore
Brownlee	Neal
Burns	Nelson
Collie	Newton
Cotten	Oneal
Davis	Pace
Hill	Rawlings

Redditt	Sulak
Roberts	Van Zandt
Small	Westerfeld
Spears	Winfield
Stone	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

House Bill on First Reading

H. B. No. 40, received from the House today, was laid before the Senate, read first time and referred to the Committee on Game and Fish.

Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Conference Committee Report on S. B. No. 20 by a vote of 112 yeas and 3 nays.

The House has concurred in Senate amendments to House Bill No. 44 by a vote of 116 yeas, 0 nays.

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 13. The following conferees are appointed on the part of the House:

Messrs. Stinson, Hanna, Hamilton, Brown and Wood.

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Committee Substitute for House Bill No. 40 on Second Reading

Senator Moore moved to suspend the constitutional rule requiring bills to be read on three several days and that C. S. for H. B. No. 40 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

The President then laid before the Senate:

C. S. for H. B. No. 40, A bill to be entitled "An Act providing an open season for taking mourning doves and white winged doves in the State of Texas; providing a bag limit and possession limit for such birds; providing the means by which same may be taken; providing the hours for shooting during the open season; providing a penalty for violation of any provision of this Act; repealing all laws in conflict with any provision of this Act, and declaring an emergency."

On motion of Senator Moore and by unanimous consent, Senate Rules

Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

Committee Substitute for House Bill No. 40 on Third Reading

Senator Moore moved that the constitutional rule requiring bills to be read on three several days be suspended and that C. S. for H. B. No. 40 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—24

Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Moore	Sulak
Neal	Van Zandt
Nelson	Westerfeld
Newton	Winfield
Oneal	Woodruff

Nays—2

Aikin	Isbell

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—22

Beck	Rawlings
Brownlee	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Moore	Sulak
Neal	Van Zandt
Nelson	Westerfeld
Newton	Winfield
Oneal	Woodruff
Pace	

Nays—4

Aikin	Isbell
Burns	

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

Motion to Suspend Rule

Senator Aikin moved to suspend that portion of Senate Rule No. 98 which relates to the giving of a 48-hour notice of a hearing on a bill in committee, for the purpose of allowing a report to be made today on H. B. No. 69, which had been referred heretofore to the Committee on Civil Jurisprudence.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—10

Aikin	Newton
Collie	Oneal
Cotten	Roberts
Davis	Westerfeld
Isbell	Winfield

Nays—7

Beck	Rawlings
Burns	Redditt
Moore	Van Zandt
Pace	

Present—Not Voting

Brownlee	Spears
Neal	Woodruff

Absent

Hill	Stone
Nelson	Sulak
Small	

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

Senate Resolution No. 14

Senator Roberts, by unanimous consent, offered the following resolution at this time:

Whereas, The Finance Committee of the Senate has many duties to perform at each Regular Session of the Legislature, including the preparation of the General Appropriation Bills; and

Whereas, The various other duties of the members of the Committee that are necessary to be performed

during each Regular Session makes it impossible to prepare the best general appropriation bills; and

Whereas, The departmental appropriation bill requires a great deal of time and study on the part of the committee members because the many departments of the State government are included in this bill; and

Whereas, If there could be more time devoted to the study and preparation of the departmental appropriation bill there could be worked out a more equitable bill and at a great saving to the State; therefore, be it

Resolved by the Senate of Texas that the President of the Senate be, and he is hereby directed to appoint a committee of five members to make a study of the various State departments and prepare a bill itemizing all appropriations of all State departments for the biennium beginning in September, 1939, which properly are included in the regular departmental bill which is necessarily passed at each regular session of the Legislature; and be it further

Resolved, That the Committee is instructed to make its report to the Finance Committee of the Senate of the Forty-sixth Legislature not later than thirty days after the convening of the Forty-sixth Legislature in Regular Session; and be it further

Resolved, That the Committee be authorized to employ one secretary; and be it further

Resolved, That the actual necessary expenses of the Committee be paid from the contingent fund of the the Senate upon warrants signed by the Chairman of the Contingent expense Committee and approved by the Lieutenant Governor.

ROBERTS,
AIKIN.

The resolution was read, and by unanimous consent of the Senate, it was considered at this time.

The resolution was adopted.

In accordance with the provisions of the resolution, the President announced the appointment of the following committee:

Senators Redditt, Roberts, Aikin, Lemens and Beck.

House Bill No. 60 on Second Reading

Senator Oneal moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 60 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

The President then laid the bill before the Senate.

On motion of Senator Oneal and by unanimous consent, Senate Rules Nos. 31a and 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 60 on Third Reading

Senator Oneal moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 60 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	Nelson
Beck	Newton
Brownlee	Oneal
Burns	Pace
Collie	Rawlings
Cotten	Redditt
Davis	Roberts
Hill	Small
Isbell	Spears
Moore	Stone
Neal	Sulak

Van Zandt	Winfield
Westerfeld	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

Senate Concurrent Resolution No. 5 With House Amendments

Senator Westerfeld called up S. C. R. No. 5 from the President's table, for consideration of the House amendments to the bill.

The President laid the resolution before the Senate, and the House amendments were read.

On motion of Senator Westerfeld, the Senate concurred in the House amendments to the resolution.

Message From the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

H. C. R. No. 30, Providing for sine die adjournment of the First Called Session, 45th Legislature at 12:00 o'clock noon, June 25, 1937.

Respectfully submitted,
LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

House Concurrent Resolution No. 30

The President laid before the Senate, for consideration at this time, the following resolution:

H. C. R. No. 30, Providing that the Legislature adjourn sine die at 12:00 o'clock, noon, Friday, June 25, 1937.

The resolution was read and was adopted.

House Bill No. 39 on Second Reading

Senator Newton moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 39 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

The President then laid the bill before the Senate.

On motion of Senator Newton and by unanimous consent, Senate Rule No. 31a and Senate Rule No. 48 were suspended severally, to permit consideration of the bill at this time.

The bill was read second time and was passed to third reading.

House Bill No. 39 on Third Reading

Senator Newton moved that the

constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 39 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

The President then laid the bill before the Senate, on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—26

Aikin	Oneal
Beck	Pace
Brownlee	Rawlings
Burns	Redditt
Collie	Roberts
Cotten	Small
Davis	Spears
Hill	Stone
Isbell	Sulak
Moore	Van Zandt
Neal	Westerfeld
Nelson	Winfield
Newton	Woodruff

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

Bills and Resolution Signed.

The President signed in the presence of the Senate, after giving due notice thereof, the following enrolled bills and resolution:

H. C. R. No. 26, Expressing the intent of the State Legislature in the passing of H. B. No. 8 at the Third Called Session of the Forty-fourth Legislature.

H. B. No. 67, "An Act for the purpose of conserving the oyster resources of Calhoun County, Texas, by withdrawing the submerged lands in said County from location and lease to private persons and corporations for the planting of oysters and making private oyster beds; making it unlawful to take and transplant seed oysters without securing a permit from the Commissioners' Court; providing a penalty; providing a saving clause, and declaring an emergency."

H. B. No. 46, "An Act repealing H. B. No. 915, passed at the Regular Session of the Forty-fifth Legislature, and declaring an emergency."

At Ease

On motion of Senator Redditt, the Senate, at 4:40 o'clock p. m. stood at ease subject to the call of the President.

The President called the Senate to order at 5:30 o'clock p. m.

Revised Report of Conference Committee on Senate Bill No. 3

Senator Van Zandt submitted the following revised report of the conference committee on S. B. No. 3:

Committee Room,
Austin, Texas, June 23, 1937.

Hon. Walter F. Woodul, President of the Senate,
Hon. Robert W. Calvert, Speaker of the House.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House on S. B. No. 3, beg leave to report that we have adjusted the differences and recommend the passage of S. B. No. 3 in the form attached hereto.

VAN ZANDT,
COLLIE,
RAWLINGS,
WOODRUFF,
On part of the Senate.

HARRELL,
BLANKENSHIP,
HARRIS,
BOND,
PETSCH,
On part of the House.

By Van Zandt. S. B. No. 3.

A BILL
To Be Entitled

An Act making it unlawful to bet or wager money or anything of value upon any dog race, or upon the result of any race, speed, skill or endurance contest between dogs, to be run or held in this State or elsewhere and providing a penalty therefor; prohibiting keeping any premises, building, room or place for the purpose of being used as a place to bet or wager upon dog races and providing a penalty therefor; prohibiting the incorporation of concerns for the purpose of operating dog tracks and providing penalties and forfeiture of charters and permits of corporations violating the provisions of this Act; providing for the arrest of violators of this Act in certain instances without warrants; providing a severance or savings clause, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Hereafter it shall be unlawful for any person to bet or wager money or thing of value upon any dog race, or upon the result of any race, speed, skill, or endurance contest, of, by or between dogs, run or to be run or held in this State or elsewhere.

Sec. 2. Whoever violates any provision of this Act shall upon conviction, be fined not less than Two Hundred ($200.00) Dollars, nor more than Five Hundred ($500.00) Dollars, and be imprisoned in jail not less than thirty (30) days, nor more than ninety (90) days.

Sec. 3. If any person shall keep or be in any manner interested in keeping any premises, building, room or place for the purpose of being used as a place to bet or wager upon dog races or contests of speed, skill or endurance of, by or between dogs, or to keep or to exhibit for the purpose of gaming any such premises, building, room or place whatsoever, or as a place where people resort to gamble, bet or wager upon any such dog race or contest, he shall upon conviction be confined in the penitentiary not less than two nor more than four years. Any premises, building room or place shall be considered as used for gaming or to gamble with or for betting or wagering if any money or anything of value is bet on such dog race or contest or if the same is resorted to for the purpose of gaming or betting upon any such dog race or contest.

Sec. 4. No corporation, private or otherwise, may be organized, formed, chartered or authorized to do business in this State which has for its purpose directly or remotely, the operation or running of dog races, or contests of speed, skill or endurance of, by or between dogs, or the maintenance, furnishing, leasing or renting of a track, place, enclosure, unenclosure, room, building or combination of either where dog races or contests of speed, skill or endurance of, by or between dogs are, or may be held, run, raced or exhibited.

The charter or permit of any corporation now doing business in this State, may be forfeited, under the provisions of law governing the forfeiture of Corporate Charters in this State, for any or all of the grounds herein specified and set forth in this Section.

Sec. 5. It shall be the duty of all peace officers to arrest with or without a warrant any and all persons violating any provision of this Act, whenever such violation shall be within the view or knowledge of such peace officer.

Sec. 6. It is hereby provided that if any section, subsection, paragraph, clause or part thereof of this Act is declared unconstitutional or inoperative by any Court of competent jurisdiction, the same shall not effect or invalidate the remaining section, sub-section, paragraph, clause or part of this Act.

Sec. 7. The fact that a Special Session of the 45th Legislature is now in session to consider the provisions set forth hereinabove creates an emergency and an imperative public necessity that the Constitutional Rule providing a bill to be read on three (3) several days in each House be suspended, and said rule is hereby suspended, and that this Act shall have effect and be in force from and after its passage, and it is so enacted.

Question—Shall the report be adopted?

The report was adopted by the following vote:

Yeas—22

Aikin	Newton
Beck	Oneal
Brownlee	Pace
Burns	Rawlings
Collie	Redditt
Cotten	Roberts
Davis	Small
Hill	Spears
Isbell	Van Zandt
Neal	Winfield
Nelson	Woodruff

Nays—1

Moore

Absent

Stone	Westerfeld
Sulak	

Absent—Excused

Head	Shivers
Holbrook	Weinert
Lemens	

Adjournment

On motion of Senator Moore, the Senate, at 5:35 o'clock p. m., adjourned until 10:30 o'clock a. m. tomorrow.

APPENDIX

Reports of Standing Committees

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 38, A bill to be entitled "An Act to amend Article 4285, R. C. S., 1925, providing the procedure authorizing the issuance of letters of guardianship in estates of non-resident minors, persons of unsound mind and drunkards; and to amend Article 4286, R. C. S., 1925, providing for the sale, renting, leasing, leasing for oil and gas and other minerals of personal and real property of non-resident wards, and for the removal of the same, under orders of the court having jurisdiction of such estate; and repealing Article 4289, R. C. S. of 1925; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SMALL Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Fish and Game, to whom was referred

H. B. No. 51, A bill to be entitled "An Act to prohibit the use of a seine for taking fish in the waters and tributaries of the Bosque River in Hamilton County, Texas; providing, however, for the use of a net during the months of July, August, September and October for the purpose of taking fish; permitting the use of a minnow seine not more than twenty (20) feet in length for the purpose of taking minnows for bait; providing a penalty; repealing Chapter 47, Acts of the Forty-fourth Legislature, Regular Session; repealing H. B. No. 965, Acts of the Forty-fifth Legislature, Regular Session; and all laws and parts of laws in conflict herewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

WEINERT, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Fish and Game, to whom was referred

H. B. No. 67, A bill to be entitled "An Act for the purpose of conserving the oyster resources of Calhoun County, Texas, by withdrawing the submerged lands in said county from location and lease to private persons and corporations for the planting of oysters and making private oyster beds; making it unlawful to take and transplant seed oysters without securing a permit from the commissioners' court; providing a penalty; providing a saving clause; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the

recommendation that it do pass and be not printed.

MOORE, Acting Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

H. B. No. 52, A bill to be entitled "An Act authorizing the commissioners' court in each county in this State having a population of not less than forty-two thousand, one hundred and twenty-five (42,125), nor more than forty-two thousand, one hundred and fifty (42,150), according to the last preceding Federal Census, to allow each county commissioner certain expenses for traveling and in connection with the use of his automobile on official business in overseeing the construction work on public roads of the county; requiring each such commissioner to pay the expense of operation and repair of such vehicle so used by him without further expense to the county; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SPEARS, Chairman.

Committee Room,
Austin, Texas, June 23, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 66, A bill to be entitled "An Act amending Section 2, of Senate Bill No. 185, Acts of the Forty-fifth Legislature, Regular Session, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

COTTEN, Chairman.

Committee Room,
Austin, Texas, June 23, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 65, A bill to be entitled "An Act amending Section 11 of Senate Bill No. 185, Acts of the Forty-fifth Legislature, Regular Session, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

COTTEN, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 46, A bill to be entitled "An Act repealing House Bill No. 915, passed at the Regular Session of the Forty-fifth Legislature; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

COTTEN, Chairman.

Committee Room,
Austin, Texas, June 23, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Highways and Motor Traffic, to whom was referred

H. B. No. 48, A bill to be entitled "An Act creating a special road law for Montague County; authorizing the commissioners' court to issue funding bonds or warrants in lieu of certain scrip warrants issued in the year 1937, and validating such scrip; providing the method of issuing the same; making it the duty of the commissioners' court to levy a tax sufficient to pay principal and interest as they mature and accrue; making the General Laws pertaining to roads and bridges applicable in Montague County and providing that the provisions of this Act shall be effective in case of conflict with any General or Special Law; providing that if any portion of this Act shall be held invalid, such holding shall not effect the other portions hereof; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the

recommendation that it do pass and be not printed.

RAWLINGS, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Fish and Game, to whom was referred

H. B. No. 62, A bill to be entitled "An Act amending Section 1 of H. B. 186, same being Chapter 10 of the Special Laws of the Forty-third Legislature, Regular Session by extending the closed season on deer in San Augustine and Sabine Counties until February 21, 1939; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Acting Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Fish and Game, to whom was referred

H. B. No. 30, A bill to be entitled "An Act declaring it unlawful to take, hunt, trap, shoot, or kill any prairie chicken in the State of Texas for a period of five (5) years; prescribing penalty for violation of the provisions of this Act; making the Act accumulative; repealing all laws and parts of laws in conflict herewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

MOORE, Acting Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 61, A bill to be entitled "An Act to amend Article 4180 of the Revised Civil Statutes of the State of Texas of 1925, as amended by Senate Bill 84, Acts of the Regular Session of the Forty-fifth Legislature, so as to provide for the investment by guardians of the surplus funds of their wards in bonds of any county or district or subdivision in Texas, or of any incorporated city or town in Texas; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SMALL, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Educational Affairs to whom was referred

H. B. No. 44, A bill to be entitled "An Act providing for the amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; providing conditions and regulations relative to payment of salaries, etc.; repealing all laws and parts of laws, General or Special, in conflict therewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, with amendment, and be not printed.

COTTEN, Chairman

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

H. B. No. 33, A bill to be entitled "An Act amending Subsection (1) of Section 19, Chapter 465, Acts of the Forty-fourth Legislature, Second Called Session, by providing that premiums on deputies' official bonds shall be a legal and legitimate expense of office in counties containing an excess of one hundred and ninety thousand (190,000) population; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SPEARS, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred H. B. No. 32

Have had same under consideration, and beg leave to report back to the Senate that same do pass and be not printed.

SPEARS, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 55, A bill to be entitled "An Act appointing directors of San Antonio River Canal Conservancy District; providing for the appointment of their successors; designating their terms of office; providing for the filling of vacancies; prescribing the oath of office; providing who is eligible for appointment; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

PACE, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 45, A bill to be entitled "An Act amending Article 793, Title 9, Chapter 4, Code of Criminal Procedure of Texas, 1925, authorizing the commissioners court of certain counties in Texas to fix the rate of wages to be paid county convicts committed to workhouse, county farms, or public improvements at an amount per day not less than One Dollar ($1.00) nor more than Three Dollars ($3.00); and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

PACE, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

H. B. No. 25, A bill to be entitled "An Act fixing the compensation of county auditors in every county having a population of not less than one hundred and ninety thousand (190,000) nor more than two hundred thousand (200,000) inhabitants according to the last preceding United States Census and prescribing how the same shall be paid; providing that in such counties where there is a city and county hospital that the county auditor shall audit the books and records of such hospital and shall make reports to the county and city governments covering the operation of such hospital and fixing the compensation therefor and prescribing how the same shall be paid; repealing all laws in conflict herewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass with committee amendment, and be not printed.

SPEARS, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 63, A bill to be entitled "An Act to amend Article 2687 of the 1925 Revised Civil Statutes of Texas by adding thereto a new Section to be known as Article 2687-b, prescribing the time of meeting of the county board of school trustees in counties containing a population of not less than 130,000 and not more than 133,000, according to the last preceding Federal Census; providing for their compensation; providing the fund from which same shall be paid; providing this Act shall be cumulative of all existing laws on this subject but this Act shall apply where in conflict therewith."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

COTTEN, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 68.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

COTTEN, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 50, A bill to be entitled "An Act authorizing independent school districts in which there is situated a city with a population of not less than seven thousand, one hundred (7,100) and not more than seven thousand, two hundred (7,200), according to the last preceding Federal Census, to expend not more than fifty (50) per cent of the taxes assessed and collected for a period not to exceed four (4) years, for the purpose of paying warrants issued in the payment of premium upon bonds refinanced and/or refunded by such independent school district at a less rate of interest and thereby create a saving, and in the payment of the actual and necessary cost of refinancing and of refunding said bonds."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

COTTEN, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

H. B. No. 60, A bill to be entitled "An Act repealing Subdivision (i) of Article 8017 of the 1925 Revised Civil Statutes of Texas; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

HILL, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries, to whom was referred

H. B. No. 47, A bill to be entitled "An Act to amend Article 2371 of the Revised Civil Statutes of Texas of 1925, and as amended by House Bill No. 675, Acts of the Forty-fifth Legislature, Regular Session, by providing that in all counties of this State having a population of two hundred and fifty thousand (250,000) or more, according to the last United States Census, the commissioners' court in such county may expend, in furnishing a rest room for women in the courthouse, or in the courthouse buildings, or on courthouse grounds, a sum not to exceed Three Hundred Dollars ($300); and may expend for its maintenance, including the compensation paid by the county to the matron, an amount not to exceed One Hundred Dollars ($100) per month, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SPEARS, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Counties and County Boundaries to whom was referred

H. B. No. 57, A bill to be entitled "An Act amending Article 3899 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 220, Acts of the Regular Session of the Forty-third Legislature, and as amended by Chapter 311, Acts of the Regular Session of the Forty-fourth Legislature, and as amended by Chapter 465, Acts of the Second Called Session of the Forty-fourth Legislature; providing that Criminal District Attorneys who perform the duties of District Attorneys in cer-

tain Counties may incur certain expenses in investigating crime and accumulating evidence in criminal cases, and for the payment of mileage traveled by said Criminal District Attorneys in automobiles furnished by them in the discharge of their official duties; providing that this Act shall be cumulative of all laws not in conflict herewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SPEARS, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 36, A bill to be entitled "An Act amending Article 2094 of the Revised Civil Statutes of Texas, of 1925, as amended by Acts of the Forty-first Legislature, Page 89, Chapter 43, Section 1, and providing that after the effective date of this Act, the provisions of said Article 2094, as amended, shall not apply to counties containing, according to the last preceding Federal Census, a population of not less than twenty-five thousand (25,000) and not more than thirty-seven thousand, five hundred (37,500), and containing a city with a population, according to the last preceding Federal Census, of more than twenty-five thousand (25,000); and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

SMALL, Chairman.

Committee Room,
Austin, Texas, June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Game and Fish, to whom was referred

H. B. No. 40, A bill to be entitled "An Act providing an open season for taking mourning doves and white winged doves in the State of Texas; providing a bag limit and possession limit for such birds; providing the means by which same may be taken; providing the hours for shooting during the open season; providing a penalty for violation of any provision of this Act; repealing all laws in conflict with any provision of this Act, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted by the Committee in lieu thereof, do pass and be not printed.

MOORE, Acting Chairman.

Committe Room,
Austin, Texas June 24, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, you Committee on Counties and County Boundaries, to whom was referred

H. B. No. 39, A bill to be entitled "An Act granting the Commissioners Court of Bell County permission to pay out of the General Fund of said County bounties for the destruction of rattlesnakes, and predatory animals; and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

SPEARS, Chairman.

Committee Room,
Austin, Texas, June 23, 1937.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 29 carefully examined and compared and find same correctly engrossed.

ROBERTS, Chairman.

Report of Judiciary Committee of United States Senate on Bill to Reorganize the Judicial Branch of Federal Government.

Adverse report on the Administration bill (S. 1392) to reorganize the Federal Judiciary system was submitted to the Senate by Senator King for a majority of the Senate Committee on the Judiciary, June 14. The committee's report, signed by seven Democrats and three Republicans, follows in full text:

The Committee on the Judiciary, to whom was referred the bill (S. 1392) to reorganize the judicial branch of the Government, after full

consideration, having unanimously amended the measure, hereby report the bill adversely with the recommendation that it do not pass.

The amendment agreed to by unanimous consent, is as follows:

Page 3, lines 5, 8, and 9, strike out the words "hereafter appointed."

Summary of Measure as It Now Reads

The bill, as thus amended, may be summarized in the following manner:

By section 1 (a) the President is directed to appoint an additional judge to any court of the United States when and only when three contingencies arise:

(a) That a sitting judge shall have attained the age of 70 years;

(b) That he shall have held a Federal judge's commission for at least 10 years;

(c) That he has neither resigned nor retired within 6 months after the happening of the two contingencies first named.

The happening of the three contingencies would not, however, necessarily result in requiring an appointment, for section 1 also contains a specific defeasance clause to the effect that no nomination shall be made in the case of a judge, although he is 70 years of age, has served at least 10 years and has neither resigned nor retired within 6 months after the happening of the first two contingencies, if, before the actual nomination of an additional judge, he dies, resigns, or retires. Moreover, section 6 of the bill provides that "it shall take effect on the 30th day after the date of its enactment."

Thus the bill does not with certainty provide for the expansion of any court or the appointment of any additional judges, for it will not come into operation with respect to any judge in whose case the described contingencies have happened, if such judge dies, resigns, or retires within 30 days after the enactment of the bill or before the President shall have had opportunity to send a nomination to the Senate.

By section 1 (b) it is provided that in event of the appointment of judges under the provisions of section 1 (a), then the size of the court to which such appointments are made is "permanently" increased by that number. But the number of appointments to be made is definitely limited by this paragraph. Regardless of the age or service of the members of the Federal judiciary, no more than 50 judges may be appointed in all; the Supreme Court may not be increased beyond 15 members, no circuit courts of appeals, nor the Court of Claims, nor the Court of Customs and Patent Appeals, nor the Customs Court may be increased by more than 2 members; and finally, in the case of district courts, the number of judges now authorized to be appointed for any district or group of districts may not be more than doubled.

Section 1 (c) fixes the quorum of the Supreme Court, the Court of Appeals for the District of Columbia, the Court of Claims, and the Court of Customs and Patent Appeals.

Section 1 (d) provides that an additional judge shall not be appointed in the case of a judge whose office has been abolished by Congress.

Section 2 provides for the designation and assignment of judges to courts other than those in which they hold their commissions. As introduced, it applied only to judges to be appointed after the enactment of the bill. As amended, it applies to all judges regardless of the date of their appointment, but it still alters the present system in a striking manner, as will be more fully indicated later.

Circuit judges may be assigned by the Chief Justice for service in any circuit court of appeals. District judges may be similarly assigned by the Chief Justice to any district court, or by the senior circuit judge of his circuit (but subject to the authority of the Chief Justice) to any district court within the circuit.

After the assignment of a judge by the Chief Justice, the senior circuit judge of the district in which he is commissioned may certify to the Chief Justice any reason deemed sufficient by him to warrant the revocation or termination of the assignment, but the Chief Justice has full discretion whether or not to act upon any such certification. The senior circuit judge of the district to which such assignment will be made

is not given similar authority to show why the assignment should not be made effective.

Section 3 gives the Supreme Court power to appoint a Proctor to investigate the volume, character, and status of litigation in the circuit and district courts, to recommend the assignment of judges authorized by section 2, and to make suggestions for expediting the disposition of pending cases. The salary of the Proctor is fixed at $10,000 per year and provision is made for the functions of the office.

Section 4 authorizes an appropriation of $100,000 for the purposes of the Act.

Section 5 contains certain definitions.

Section 6, the last section, makes the act effective 30 days after enactment.

Committee's Argument for Rejection of Bill

The committee recommends that the measure be rejected for the following primary reasons:

I. The bill does not accomplish any one of the objectives for which it was originally offered.

II. It applies force to the judiciary and in its initial and ultimate effect would undermine the independence of the courts.

III. It violates all precedents in the history of our Government and would in itself be a dangerous precedent for the future.

IV. The theory of the bill is in direct violation of the spirit of the American Constitution and its employment would permit alteration of the Constitution without the people's consent or approval; it undermines the protection our constitutional system gives to minorities and is subversive of the rights of individuals.

V. It tends to centralize the Federal district judiciary by the power of assigning judges from one district to another at will.

VI. It tends to expand political control over the judicial department by adding to the powers of the legislative and executive departments respecting the judiciary.

Issue of Injunctions not Covered in Bill

This measure was sent to the Congress by the President on February 5, 1937, with a message (appendix A) setting forth the objectives sought to be attained.

It should be pointed out here that a substantial portion of the message was devoted to a discussion of the evils of conflicting decisions by inferior courts on constitutional questions and to the alleged abuse of the power of injunction by some of the Federal courts. These matters, however, have no bearing on the bill before us, for it contains neither a line nor a sentence dealing with either of those problems.

Nothing in this measure attempts to control, regulate, or prohibit the power of any Federal court to pass upon the constitutionality of any law—State or National.

Nothing in this measure attempts to control, regulate, or prohibit the issuance of injunctions by any court, in any case, whether or not the Government is a party to it.

If it were to be conceded that there is need of reform in these respects, it must be understood that this bill does not deal with these problems.

As offered to the Congress, this bill was designed to effectuate only three objectives, described as follows in the President's message:

1. To increase the personnel of the Federal courts "so that cases may be promptly decided in the first instance, and may be given adequate and prompt hearing on all appeals";

2. To "invigorate all the courts by the permanent infusion of new blood";

3. To "grant to the Supreme Court further power and responsibility in maintaining the efficiency of the entire Federal judiciary."

The third of these purposes was to be accomplished by the provisions creating the office of the Proctor and dealing with the assignment of judges to courts other than those to which commissioned.

The first two objectives were to be attained by the provisions authorizing the appointment of not to exceed 50 additional judges when sitting judges of retirement age, as defined in the bill, failed to retire or

resign. How totally inadequate the measure is to achieve either of the named objectives, the most cursory examination of the facts reveals.

The Bill Said to Fail of Its Primary Purpose

In the first place, as already pointed out, the bill does not provide for any increase of personnel unless judges of retirement age fail to resign or retire. Whether or not there is to be an increase of the number of judges and the extent of the increase if there is to be one, is dependent wholly upon the judges themselves and not at all upon the accumulation of litigation in any court. To state it another way the increase of the number of judges is to be provided, not in relation to the increase of work in any district or circuit court, but in relation to the age of the judges and their unwillingness to retire.

In the second place, as pointed out in the President's message, only 25 of the 237 judges serving in the Federal courts on February 5, 1937, were over 70 years of age. Six of these were members of the Supreme Court at the time the bill was introduced. At the present time there are 24 judges 70 years of age or over distributed among the 10 circuit courts, the 84 district courts, and the 4 courts in the District of Columbia and that dealing with customs cases in New York. Of the 24, only 10 are serving in the 84 district courts, so that the remaining 14 are to be found in 5 special courts and in the 10 circuit courts. (Appendix B.) Moreover, the facts indicate that the courts with the oldest judges have the best records in the disposition of business. It follows, therefore, that since there are comparatively few aged justices in service and these are among the most efficient on the bench, the age of sitting judges does not make necessary an increase of personnel to handle the business of the courts.

Extra Judges No Remedy for Law's Delay, It is Said

There was submitted with the President's message a report from the Attorney General to the effect that in recent years the number of cases has greatly increased and that delay in the administration of justice is interminable. It is manifest, however, that this condition cannot be remedied by the contingent appointment of new judges to sit beside the judges over 70 years of age, most of whom are either altogether equal to their duties or are commissioned in courts in which congestion of business does not exist. It must be obvious that the way to attack congestion and delay in the courts is directly by legislation which will increase the number of judges in those districts where the accumulation exists, not indirectly by the contingent appointment of new judges to courts where the need does not exist, but where it may happen that the sitting judge is over 70 years of age.

"Flying Squadron" of Judges Deemed Dangerous Innovation

Perhaps it was the recognition of this fact that prompted the authors of the bill to draft section 2 providing for the assignment of judges "hereafter appointed" to districts other than those to which commissioned. Such a plan, it will not be overlooked, contemplates the appointment of a judge to the district of his residence and his assignment to duty in an altogether different jurisdiction. It thus creates a flying squadron of itinerant judges appointed for districts and circuits where they are needed to be transferred to other parts of the country for judicial service. It may be doubted whether such a plan would be effective. Certainly it would be a violation of the salutary American custom that all public officials should be citizens of the jurisdiction in which they serve or which they represent.

Though this plan for the assignment of new judges to the trial of cases in any part of the country at the will of the Chief Justice was in all probability intended for no other purpose than to make it possible to send the new judges into districts where actual congestion exists, it should not be overlooked that most of the plan involves a possibility of real danger.

To a greater and a greater degree, under modern conditions, the Government is involved in civil litigation with its citizens. Are we then

through the system devised in this bill to make possible the selection of particular judges to try particular cases?

Under the present system (U.S.C., title 28, sec. 17) the assignment of judges within the circuit is made by the senior circuit judge or in his absence, the circuit justice. An assignment of a judge from outside the district may be made only when the senior circuit judge or the circuit justice makes certificate of the need of the district to the Chief Justice. Thus is the principle of local self-government preserved by the present system.

This principle is destroyed by this bill which allows the Chief Justice, at the recommendation of the Proctor, to make assignments anywhere regardless of the needs of any district. Thus is the administration of justice to be centralized by the proposed system.

Added Burden Seen Probable for the "Poorer Litigants"

It has been urged that the plan would correct the law's delay, and the President's message contains the statement that "poor litigants are compelled to abandon valuable rights or to accept inadequate or unjust settlements because of sheer inability to finance or to await the end of long litigation." Complaint is then made that the Supreme Court during the last fiscal year "permitted private litigants to prosecute appeals in only 108 cases out of 803 applications."

It can scarcely be contended that the consideration of 695 more cases in the Supreme Court would have contributed in any degree to curtailing the law's delay or to reducing the expense of litigation. If it be true that the postponement of final decision in cases is a burden on poorer litigants as the President's message contends, then it must be equally true that any change of the present system which would enable wealthy litigants to pursue their cases in the Supreme Court would result only in an added burden on the "poorer litigants" whose "sheer inability to finance or to await the end of long litigation" compels them "to abandon valuable rights or to accept inadequate or unjust settlements."

Of course, there is nothing in this bill to alter the provisions of the act of 1925 by which the Supreme Court was authorized "in its discretion to refuse to hear appeals in many classes of cases." The President has not recommended any change of that law, and the only amendment providing an alteration of the law that was presented to the committee was, on roll call, unanimously rejected by the committee. It is appropriate, however, to point out here that one of the principal considerations for the enactment of the certiorari law was the belief of Congress that the interests of the poorer litigant would be served and the law's delay reduced if the Supreme Court were authorized to reject frivolous appeals. Congress recognized the fact that wealthy clients and powerful corporations were in a position to wear out poor litigants under the old law. Congress was convinced that in a great majority of cases, a trial in a nisi prius court and a rehearing in a court of appeals would be ample to do substantial justice. Accordingly, it provided in effect that litigation should end with the court of appeals unless an appellant could show the Supreme Court on certiorari that a question of such importance was involved as to warrant another hearing by the Supreme Court. Few litigated cases were ever decided in which the defeated party thought that justice had been done and in which he would not have appealed from the Supreme Court to Heaven itself, if he thought that by doing so he would wear down his opponent.

No Evidence Noted That the Court Denied Hearings

The Constitution provides for one Supreme Court (sec. 1, art. III) and authorizes Congress to make such exceptions as it deems desirable to the appellate jurisdiction of the Supreme Court (sec. 2, art. III). One obvious purpose of this provision was to permit Congress to put an end to litigation in the lower courts except in cases of greatest importance, and, also, in the interest of the poorer citizen, to make it less easy for wealthy litigants to invoke delay to defeat justice.

No alteration of this law is suggested by the proponents of this

measure, but the implication is made that the Supreme Court has improvidently refused to hear some cases. There is no evidence to maintain this contention. The Attorney General in his statement to the committee presented a mathematical calculation to show how much time would be consumed by the Justices in reading the entire record in each case presented on appeal. The members of the committee and, of course the Attorney General, are well aware of the fact that attorneys are officers of the Court, that it is their duty to summarize the records and the points of appeal, and that the full record is needed only when, after having examined the summary of the attorneys, the court is satisfied there should be a hearing on the merits.

The Chief Justice, in a letter presented to this committee (appendix C), made it clear that "even if two or three of the Justices are strongly of the opinion that certiorari should be allowed, frequently the other judges will acquiesce in their view, but the petition is always granted if four so vote."

It thus appears from the bill itself from the message of the President, the statement of the Attorney General, and the letter of the Chief Justice that nothing of advantage to litigants is to be derived from this measure in the reduction of the law's delay.

Questions of Retirement for Age Not Solved by Bill

The next question is to determine to what extent "the persistent infusion of new blood" may be expected from this bill.

It will be observed that the bill before us does not and cannot compel the retirement of any judge, whether on the Supreme Court or any other court, when he becomes 70 years of age. It will be remembered that the mere attainment of three score and ten by a particular judge does not under this bill, require the appointment of another. The man on the bench may be 80 years af age, but this bill will not authorize the President to appoint a new judge to sit beside him unless he has served as a judge for 10 years. In other words, age itself is not penalized; the penalty falls only when age is attended with experience.

No one should overlook the fact that under this bill the President, whoever he may be and whether or not he believes in the constant infusion of young blood in the courts, may nominate a man 69 years and 11 months of age to the Supreme Court, or to any court, and, if confirmed, such nominee, if he never had served as a judge, would continue to sit upon the bench unmolested by this law until he had attained the ripe age of 79 years and 11 months.

We are told that "modern complexities call also for a constant infusion of new blood in the courts, just as it is needed in executive functions of the Government and in private business." Does this bill provide for such? The answer is obviously no. As has been just demonstrated, the introduction of old and inexperienced blood into the courts is not prevented by this bill.

Specific Limitations Seen for Retirement Rules

More than that, the measure, by its own terms, makes impossible the "constant" or "persistent" infusion of new blood. It is to be observed that the word is "new," not "young."

The Supreme Court may not be expanded to more than 15 members. No more than two additional members may be appointed to any circuit court of appeals, to the Court of Claims, to the Court of Customs and Patent Appeals, or to the Customs Court, and the number of judges now serving in any district or group of districts may not be more than doubled. There is, therefore, a specific limitation of appointment regardless of age. That is to say, this bill, ostensibly designed to provide for the infusion of new blood, sets up insuperable obstacles to the "constant" or "persistent" operation of that principle.

Take the Supreme Court as an example. As constituted at the time this bill was presented to the Congress, there were six members of that tribunal over 70 years of age. If all six failed to resign or retire within 30 days after the enactment of this bill, and none of the members died, resigned, or retired before the President had made a nom-

ination, then the Supreme Court would consist of 15 members. These 15 would then serve, regardless of age, at their own will, during good behavior, in other words, for life. Though as a result we had a court of 15 members 70 years of age or over, nothing could be done about it under this bill, and there would be no way to infuse "new" blood or "young" blood except by a new law further expanding the Court, unless, indeed, Congress and the Executive should be willing to follow the course defined by the framers of the Constitution for such a contingency and submit to the people a constitutional amendment limiting the terms of Justices or making mandatory their retirement at a given age.

It thus appears that the bill before us does not with certainty provide for increasing the personnel of the Federal judiciary, does not remedy the law's delay, does not serve the interest of the "poorer litigant" and does not provide for the "constant" or "persistent infusion of new blood" into the judiciary. What then, does it do?

Measure "Applies Force to the Judiciary"

The answer is clear. It applies force to the judiciary. It is an attempt to impose upon the courts a course of action, a line of decision which, without that force, without that imposition, the judiciary might not adopt.

Can there be any doubt that this is the purpose of the bill? Increasing the personnel is not the object of this measure; infusing young blood is not the object; for if either one of these purposes had been in the minds of the proponents, the drafters would not have written the following clause to be found on page 2, lines 1 to 4, inclusive:

"Provided, That no additional judge shall be appointed hereunder if the judge who is of retirement age dies, resigns, or retires prior to the nomination of such additional judge."

Let it also be borne in mind that the President's message submitting this measure contains the following sentence:

"If, on the other hand, any judge eligible for retirement should feel that his Court would suffer because of an increase of its membership, he may retire or resign under already existing provisions of law if he wishes to do so."

Moreover, the Attorney General in testifying before the committee (hearings, pt. 1, p. 33) said:

"If the Supreme Court feels that the addition of six judges would be harmful to that Court, it can avoid that result by resigning."

Three invitations to the members of the Supreme Court over 70 years of age to get out despite all the talk about increasing personnel to expedite the disposition of cases and remedy the law's delay. One by the bill. One by the President's message. One by the Attorney General.

Impropriety Charged in Hints to Resign

Can reasonable men by any possibility differ about the constitutional impropriety of such a course?

Those of us who hold office in this Government, however humble or exalted it may be, are creatures of the Constitution. To it we owe all the power and authority we possess. Outside of it we have none. We are bound by it in every official act.

We know that this instrument, without which we would not be able to call ourselves presidents, judges, or legislators, was carefully planned and deliberately framed to establish three coordinate branches of government, every one of them to be independent of the others. For the protection of the people, for the preservation of the rights of the individual, for the maintenance of the liberties of minorities, for maintaining the checks and balances of our dual system, the three branches of the Government were so constituted that the independent expression of honest difference of opinion could never be restrained in the people's servants and no one branch could overawe or subjugate the others. That is the American system. It is immeasurably more important, immeasurably more sacred to the people of America, indeed, to the people of all the world, than the immediate adoption of any legislation however beneficial.

That judges should hold office during good behavior is the prescription. It is founded upon historic

experience of the utmost significance. Compensation at stated times, which compensation was not to be diminished during their tenure, was also ordained. These comprehensible terms were the outgrowths of experience which was deep-seated. Of the 55 men in the Constitutional Convention, nearly one-half had actually fought in the War for Independence. Eight of the men present had signed the Declaration of Independence, in which, giving their reasons for the act, they had said of their kind: "He has made judges dependent upon his will alone for their tenure of office and the amount and payment of their salaries." They sought to correct an abuse and to prevent its recurrence. When these men wrote the Constitution of their new Government, they still sought to avoid such an abuse as had led to such a bloody war as the one through which they had just passed. So they created a judicial branch of government consisting of courts not conditionally but absolutely independent in the discharge of their functions, and they intended that entire and impartial independence should prevail. Interference with this independence was prohibited, not partially but totally. Behavior other than good was the sole and only cause for interference. This judicial system is the priceless heritage of every American.

By this bill another and wholly different cause is proposed for the intervention of executive influence, namely, age. Age and behavior have no connection; they are unrelated subjects. By this bill, judges who have reached 70 years of age may remain on the bench and have their judgment augmented if they agree with the new appointee, or vetoed if they disagree. This is far from the independence intended for the courts by the framers of the Constitution. This is an unwarranted influence accorded the appointing agency, contrary to the spirit of the Constitution. The bill sets up a plan which has as its stability the changing will or inclination of an agency not a part of the judicial system. Constitutionally, the bill can have no sanction. The effect of the bill, as stated by the Attorney General to the committee, and indeed by the President in both his message and speech, is in violation of the organic law.

No amount of sophistry can cover up this fact. The effect of this bill is not to provide for an increase in the number of Justices composing the Supreme Court. The effect is to provide a forced retirement or, failing in this, to take from the Justices affected, a free exercise of their independent judgment.

The President tells us in his address to the Nation of March 9 (appendix D), Congressional Record, March 10, page 2650:

"When the Congress has sought to stabilize national agriculture, to improve the conditions of labor, to safeguard business against unfair competition, to protect our national resources, and in many other ways, to serve our clearly national needs, the majority of the Court has been assuming the power to pass on the wisdom of these acts of the Congress and to approve or disapprove the public policy written into these laws * * *.

"We have, therefor, reached the point as a nation where we must take action to same the Constitution from the Court and the Court from itself. We must find a way to take an appeal from the Supreme Court to the Constitution itself. We want a Supreme Court which will do justice under the Constitution—not over it. In our courts we want a government of laws and not of men."

Real Motive Said To Be Hope to Change Decisions

These words constitute a charge that the Supreme Court has exceeded the boundaries of its jurisdiction and invaded the field reserved by the Constitution to the legislative branch of the Government. At best the accusation is opinion only. It is not the conclusion of judicial process.

Here is the frank acknowledgment that neither speed nor "new blood" in the judiciary is the object of this legislation, but a change in the decisions of the Court—a subordination of the views of the judges to the views of the executive and legislative, a change to be brought about by forcing certain judges off the bench or increasing their number.

Let us, for the purpose of the argument, grant that the Court has been wrong, wrong not only in that it has rendered mistaken opinions but wrong in the far more serious sense that it has substituted its will for the

congressional will in the matter of legislation. May we nevertheless safely punish the Court?

Today it may be the Court which is charged with forgetting its constitutional duties. Tomorrow it may be the Congress. The next day it may be the Executive. If we yield to temptation now to lay the lash upon the Court, we are only teaching others how to apply it to ourselves and to the people when the occasion seems to warrant. Manifestly, if we may force the hand of the Court to secure our interpretation of the Constitution, then some succeeding Congress may repeat the process to secure another and a different interpretation and one which may not sound so pleasant in our ears as that for which we now contend.

There is a remedy for usurpation or other judicial wrongdoing. If this bill be supported by the toilers of this country upon the ground that they want a Court which will sustain legislation limiting hours and providing minimum wages, they must remember that the procedure employed in the bill could be used in another administration to lengthen hours and to decrease wages. If farmers want agricultural relief and favor this bill upon the ground that it gives them a Court which will sustain legislation in their favor, they must remember that the procedure employed might some day be used to deprive them of every vestige of a farm relief.

When members of the Court usurp legislative powers or attempt to exercise political power, they lay themseves open to the charge of having lapsed from that "good behavior" which determines the period of their official life. But, if you say, the process of impeachment is difficult and uncertain, the answer is, the people made it so when they framed the Constitution. It is not for us, the servants of the people, the instruments of the Constitution, to find a more easy way to do that which our masters made difficult.

But, if the fault of the judges is not so grevious as to warrant impeachment, if their offense is merely that they have grown old, and we feel, therefore, that there should be a "constant infusion of new blood," then obviously the way to achieve that result is by constitutional amendment fixing definite terms for the members of the judiciary or making mandatory their retirement at a given age. Such a provision would indeed provide for the constant infusion of new blood, not only now but at all times in the future. The plan before us is but a temporary expedient which operates once and then never again, leaving the Court as permanently expanded to become once more a court of old men, gradually year by year falling behind the times.

How much better to proceed according to the rule laid down by the Constitution itself than by indirection to achieve our purposes. The futility and absurdity of the devious rather than the direct method is illustrated by the effect upon the problem of the retirement of Justice Van Devanter.

According to the terms of the bill, it does not become effective until 30 days after enactment, so the number of new judges to be appointed depends not upon the bill itself, not upon the conditions as they exist now or as they might exist when the bill is enacted, but upon conditions as they exist 30 days thereafter. Because Justice Van Devanter's retirement was effective as of June 2, there were on that date only five rather than six Justices on the Supreme Court of retirement age. The maximum number of appointments, therefore, is now 5 rather than 6 and the size of the Court 14 rather than 15. Now, indeed, we have put an end to 5-to-4 decisions and we shall not be harassed by 8-to-7 decisions. Now instead of making one man on the Court all-powerful, we have rendered the whole Court impotent when it divides 7 to 7 and we have provided a system approving the lower court by default.

But we may have another vacancy, and then the expanded court will be 13 rather than 14. A court of 13 with decisions by a vote of 7 to 6 and the all-powerful one returned to his position of judicial majesty. Meanwhile, the passage of years carries the younger members onward to the age of retirement when, if they should not retire, additional appointments could be made until the final maximum of 15 was reached.

The membership of the Court, between 9 and 15, would not be fixed by the Congress, nor would it be fixed by the President. It would not

even be fixed by the Court as a court, but would be determined by the caprice or convenience of the Justices over 70 years of age. The size of the Court would be determined by the personal desire of the Justices, and if there be any public advantage in having a court of any certain size, that public advantage in the people's interest would be wholly lost. Is it of any importance to the country that the size of the Court should be definitely fixed? Or are we to shut our eyes to that factor just because we have determined to punish the Justices whose opinions we present?

But, if you say the process of reform by amendment is diffcult and uncertain, the answer is, the people made it so when they framed the Constitution, and it is not for us, the servants of the people, by indirection to evade their will, or by devious methods to secure reforms upon which they only in their popular capacity have the right to pass.

Measure Denounced as Invasion of Judicial Power

This bill is an invasion of judicial power such as has never before been attempted in this country. It is true that in the closing days of the administration of John Adams, a bill was passed creating 16 new circuit judges while reducing by one the number of places on the Supreme Court. It was charged that this was a bill to use the judiciary for a political purpose by providing official positions for members of a defeated party. The repeal of that law was the first task of the Jefferson administration.

Neither the original act nor the repealer was an attempt to change the course of judicial decision. And never in the history of the country has there been such an act. The present bill comes to us, therefore wholly without precedent.

It is true that the size of the Supreme Court has been changed from time to time, but in every instance after the Adams administration, save one, the changes were made for purely administrative purposes in aid of the Court, not to control it.

Because the argument has been offered that these changes justify the present proposal, it is important to review all of the instances.

They were seven in number.

The first was by the act of 1801 reducing the number of members from six, as originally constituted, to five. Under the Judiciary Act of 1789 the circuit courts were trial courts and the Justices of the Supreme Court sat in them. That onerous duty was removed by the act of 1801 which created new judgeships for the purpose of relieving the members of the Supreme Court of this task. Since the work of the Justices was thereby reduced, it was provided that the next vacancy should not be filled. Jeffersonians explained the provision by saying that it was intended merely to prevent Jefferson from making an appointment of a successor to Justice Cushing whose death was expected.

The next change was in 1802 when the Jefferson administration restored the membership to six.

In neither of these cases was the purpose to influence decisions.

The third change was in 1807 under Jefferson when, three new States having been admitted to the Union, a new judicial circuit had to be created, and since it would be impossible for any of the six sitting Justices of the Supreme Court to undertake the trial work in the new circuit (Ohio, Kentucky, and Tennessee), a seventh Justice was added because of the expansion of the country. Had Jefferson wanted to subjugate John Marshall this was his opportunity to multiply members of the Court and overwhelm him, but he did not do it. We have no precedent here.

Thirty years elapsed before the next change. The country had continued to expand. New States were coming in and the same considerations which caused the increase of 1807 moved the representatives of the new West in Congress to demand another expansion. In 1826 a bill adding three justices passed both Houses but did not survive the conference. Andrew Jackson, who was familiar with the needs of the new frontier States, several times urged the legislation. Finally, it was achieved in 1837 and the Court was increased from 7 to 9 members.

Here again the sole reason for the change was the need of a growing country for a larger Court. We are still without a precedent.

Changes Made During the Reconstruction Period

In 1863 the western frontiers had reached the Pacific. California had been a State since 1850 without representation on the Supreme Court. The exigencies of the war and the development of the coast region finally brought the fifth change when by the act of 1863 a Pacific circuit was created and consequently a tenth member of the High Court.

The course of judicial opinion had not the slightest bearing upon the change.

Seventy-five years of constitutional history and still no precedent for a legislative attack upon the judicial power.

Now we come to the dark days of the reconstruction era for the sixth and seventh alterations of the number of justices.

The congressional majority in Andrew Johnson's administration had slight regard for the rights of minorities and no confidence in the President. Accordingly, a law was passed in 1866, providing that no appointments should be made to the Court until its membership had been reduced from 10 to 7. Doubtless, Thaddeus Stevens feared that the appointees of President Johnson might not agree with reconstruction policies and, if a constitutional question should arise, might vote to hold unconstitutional an act of Congress. But whatever the motive, a reduction of members at the instance of the bitterest majority that ever held sway in Congress to prevent a President from influencing the Court is scarcely a precedent for the expansion of the Court now.

By the time General Grant had become President in March, 1869, the Court had been reduced to 8 members by the operation of the law of 1866. Presidential appointments were no longer resented, so Congress passed a new law, this time fixing the membership at 9. This law was passed in April, 1869, an important date to remember, for the Legal Tender decision had not yet been rendered. Grant was authorized to make the additional appointment in December. Before he could make it, however, Justice Grier resigned, and there were thus two vacancies.

The charge has been made that by the appointment to fill these vacancies Grant packed the Court to affect its decision in the Legal Tender case. Now whatever Grant's purpose may have been in making the particular appointments, it is obvious that Congress did not create the vacancies for the purpose of affecting any decision, because the law was passed long before the Court had acted in Hepburn v. Griswold and Congress made only one vacancy, but two appointments were necessary to change the opinion.

It was on February 7, 1870, that the court handed down its judgment holding the Legal Tender Act invalid, a decision very much deplored by the administration. It was on the same date that Grant sent down the nomination of the two justices whose votes, on a reconsideration of the issue, caused a reversal of the decision. As it happened, Grant had made two other nominations first, that of his Attorney General, Ebenezer Hoar, who was rejected by the Senate, and Edwin Stanton, who died 4 days after having been confirmed. These appointments were made in December, 1869, two months before the decision, and Stanton was named, according to Charles Warren, historian of the Supreme Court, not because Grant wanted him but because a large majority of the members of the Senate and the House urged it. So Grant must be acquitted of having packed the Court and Congress is still without a precedent for any act that will tend to impair the independence of the Court.

"Precedent of Loyalty to the Constitution"

Shall we now, after 150 years of loyalty to the constitutional ideal of an untrammeled judiciary, duty bound to protect the constitutional rights of the humblest citizen even against the Government itself, create the vicious precedent which must necessarily undermine our system? The only argument for the increase which survives analysis is that Congress should enlarge the Court so as to make the policies of this administration effective.

We are told that a reactionary oligarchy defies the will of the majority, that this is a bill to "un-

pack" the Court and give effect to the desires of the majority; that is to say, a bill to increase the number of Justices for the express purpose of neutralizing the views of some of the present members. Its justification we are told, but without authority, by those who would rationalize this program, that Congress was given the power to determine the size of the Court so that the legislative branch would be able to impose its will upon the judiciary. This amounts to nothing more than the declaration that when the Court stands in the way of a legislative enactment, the Congress may reverse the ruling by enlarging the Court. When such a principle is adopted, our constitutional system is overthrown!

Precedent Set by Measure Declared to Be Dangerous

This, then, is the dangerous precedent we are asked to establish. When proponents of the bill assert, as they have done, that Congress in the past has altered the number of Justices upon the Supreme Court and that this is reason enough for our doing it now, they show how important precedents are and prove that we should now refrain from any action that would seem to establish one which could be followed hereafter whenever a Congress and an executive should become dissatisfied with the decisions of the Supreme Court.

This is the first time in the history of our country that a proposal to alter the decisions of the court by enlarging its personnel has been so boldly made. Let us meet it. Let us now set a salutary precedent that will never be violated. Let us, of the Seventy-fifth Congress, in words that will never be disregarded by any succeeding Congress, declare that we would rather have an independent Court, a fearless Court, a Court that will dare to announce its honest opinions in what it believes to be the defense of the liberties of the people, than a Court that, out of fear or sense of obligation to be appointing power or factional passion, approves any measure we may enact. We are not the judges. We are not above the Constitution.

Even if every charge brought against the so-called "reactionary" members of this Court be true, it is far better that we await orderly but inevitable change of personnel than that we impatiently overwhem them with new members. Exhibiting this restraint, thus demonstrating our faith in the American system, we shall set an example that will protect the independent American judiciary from attack as long as this Government stands.

It is essential to the continuance of our constitutional democracy that the judiciary be completely independent of both the executive and legislative branches of the Government, and we assert that independent courts are the last safeguard of the citizen, where his rights, reserved to him by the express and implied provisions of the Constitution, come in conflict with the power of governmental agencies. We assert that the language of John Marshall, then in his 76th year, in the Virginia Convention (1829-31), was and is prophetic:

"Advert, sir, to the duties of a judge. He has to pass between the Government and the man whom the Government is prosecuting; between the most powerful individual in the community and the poorest and most unpopular. It is of the last importance that in the exercise of these duties he should observe the utmost fairness. Need I express the necessity of this? Does not every man feel that his own personal security and the security of his property depends on that fairness? The judicial department comes home in its effect to every man's fireside; it passes on his property, his repuation, his life, his all. It is not, to the last degree, important that he should be rendered perfectly and completely independent, with nothing to influence or control him but God and his conscience?"

Events in Other Countries Are Held Up As a Warning

The condition of the world abroad must of necessity cause us to hesitate at this ime and to refuse to enact any law that would impair the independence of or destroy the people's confidence in an independent judicial branch of our Government. We unhesitatingly assert that any effort looking to the impairment of an independent judiciary of necessity operates toward centralization of power

in the other branches of a tripartite form of government. We declare for the continuance and perpetuation of government and rule by law, as distinguished from government and rule by men, and in this we are but reasserting the principles basic to the Constitution of the United States. The converse of this would lead to and in fact accomplish the destruction of our form of government, where the written Constitution with its history, its spirit, and its long line of judicial interpretation and construction, is looked to and relied upon by millions of our people. Reduction of the degree of the supremacy of law means an increasing enlargement of the degree of personal government.

Personal government, or government by an individual, means autocratic dominance by whatever name it may be designated. Autocratic dominance was the very thing against which the American Colonies revolted, and to prevent which the Constitution was in every particular framed.

Courts and the judges thereof should be free from a subservient attitude of mind, and this must be true whether a question of constitutional construction or one of popular activity is involved. If the court of last resort is to be made to respond to a prevalent sentiment of a current hour politically imposed, that Court must ultimately become subservient to the pressure of public opinion of the hour, which might at the moment embrace mob passion abhorrent to a more calm, lasting consideration.

Progress Not a Mad Mob March But a Steady Invincible Stride

True it is, that courts like Congresses, should take account of the advancing strides of civilization. True it is that the law, being a progressive science, must be pronounced progressively and liberally; but the mile-stones of liberal progress are made to be noted and counted with caution rather than merely to be encountered and passed. Progress is not a mad mob march; rather, it is a steady, invincible stride. There is ever-impelling truth in the lines of the great liberal jurist, Mr. Justice Holmes, in Northern Securities vs. The United States, wherein he says:

"Great cases like hard cases make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment. These immediate interests exercise a kind of hydraulic pressure which makes what previously was clear, seem doubtful, and before which even well settled principles of law will bend."

If, under the "hydraulic pressure" of our present need for economic justice we destroy the system under which our people have progressed to a higher degree of justice and prosperity than that ever enjoyed by any other people in all the history of the human race, then we shall destroy not only all opportunity for further advance but everything we have thus far achieved.

"Affront to the Spirit of the Constitution"

The whole bill prophesies and permits executive and legislative inferences with the independence of the Court, a prophecy and a permission which constitute an affront to the spirit of the Constitution.

"The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex-post-facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing. (The Federalist, Vol. 2, p. 100, No. 178.)"

The spirit of the Constitution emphasizing the establishment of an independent judicial branch was reenunciated by Madison in Nos. 47 and 48 (The Federalist, Vol. 1, pp. 329, 339) and by John Adams (Adams' Works, Vol. 1, p. 186).

If interference with the judgment of an independent judiciary is to be countenanced in any degree, then it is permitted and santioned in all degrees. There is no constituted power

to say where the degree ends or begins, and the political administration of the hour may apply the essential "concepts of justice" by equipping the courts with one strain of "new blood," while the political administration of another day may use a different light and a different blood test. Thus would influence run riot. Thus perpetuity, independence, and stability belonging to the judicial arm of the Government and relied on by lawyers and laity, are lost. Thus is confidence extinguished.

From the very beginning of our Government to this hour, the fundamental necesity of maintaining inviolate the independence of the three coordinate branches of government has been recognized by legislators, jurists, and presidents. James Wilson, one of the framers of the Constitution who later became a Justice of the Supreme Court, declared that the independence of each department recognizes that its proceedings "shall be free from the remotest influence, direct or indirect, of either of the other two branches." Thus it was at the beginning. Thus it is now. Thus it was recognized by the men who framed the Constitution and administered the Government under it. Thus it was declared and recognized by the present President of the United States who, on the 19th day of May, 1937, in signing a veto message to the Congress of the United States of a measure which would have created a special commission to represent the Federal Government at the World's Fair in New York City in 1939, withheld his approval because he felt that the provision by which it gave certain administrative duties to certain Members of Congress amounted to a legislative interference with executive functions. In vetoing the bill, President Roosevelt submitted with approval the statement of the present Attorney General that:

"In my opinion those provisions of the joint resolution establishing a commission composed largely of Members of the Congress and authorizing them to appoint a United States commissioner general and two assistant commissioners for the New York World's Fair, and also providing for the expenditure of the appropriation made by the resolution, and for the administration of the resolution generally, amount to an unconstitutional invasion of the province of the Executive.

President's Former Stand for Court Independence

The solicitude of the President to maintain the independence of the executive arm of the Government against invasion by the legislative authority should be an example to us in solicitude to preserve the independence of the judiciary from any danger of invasion by the legislative and executive branches combined.

The assertion has been indiscriminately made that the Court has arrogated to itself the right to declare acts of Congress invalid. The contention will not stand against investigation or reason.

Article III of the Federal Constitution provides that the judicial power "shall extend to all cases in law and equity arising under this Constitution the laws of the United States and treaties made under their authority."

The words "under this Constitution" were inserted on the floor of the Constitutional Convention in circumstances that leave no doubt of their meaning. It is true that the Convention had refused to give the Supreme Court the power to sit as a council of revision over the acts of Congress or the power to veto such acts. That action, however, was merely the refusal to give the Court any legislative power. It was a decision wholly in harmony with the purpose of keeping the judiciary independent. But, while carefully refraining from giving the Court power to share in making laws, the Convention did give it judicial power to construe the Constitution in litigated cases.

After the various forms and powers of the new Government had been determined in principle, the Convention referred the whole matter to the Committee on Detail, the duty of which was to draft a tentative instrument. The report of this committee was then taken up section by section on the floor, debated and perfected, whereupon the instrument was referred to the Committee on Style which wrote the final draft.

When the Committee on Detail reported the provision defining the judicial power, it read as follows:

"The jurisdiction of the Supreme

Court shall extend to all cases arising under laws passed by the Legislature of the United States, etc. (Elliot's Debates, Vol. 5, p. 380.)"

On August 27, 1787, when this sentence was under consideration of the full Convention, it was changed to read as follows on motion of Dr. Johnson:

"The jurisdiction of the Supreme Court shall extend to all cases arising under this Constitution and the laws passed by the Legislature of the United States."

Madison in his notes (Elliot's Debates, Vol. 5, p. 483) reports the incident in this language:

"Dr. Johnson moved to insert the words, 'this Constitution and the' before the word 'laws.'

"Mr. Madison doubted whether it was not going too far, to extend the jurisdiction of the Court generally to cases arising under the Constitution, and whether it ought not to be limited to cases of a judiciary nature. The right of expounding the Constitution, in cases not of this nature, ought not to be given to that department.

"The motion of Dr. Johnson was agreed to, nem. con., it being generally supposed that the jurisdiction given was constructively limited to cases of a judiciary nature."

The Constitutional Aim Set Forth in Clear Language

In other words, the framers of the Constitution were not satisfied to give the Court power to pass only on cases arising under the laws but insisted on making it quite clear that the power extends to cases arising "under the Constitution." Moreover, Article VI of the Constitution, clause 2, provides:

"This Constitution and the laws of the United States which shall be made in pursuance thereof * * * shall be the supreme law of the land * * *."

Language was never more clear. No doubt can remain. A pretended law which is not "in pursuance" of the Constitution is no law at all.

A citizen has the right to appeal to the Constitution from such a statute. He has the right to demand that Congress shall not pass any act in violation of that instrument, and, if Congress does pass such an act, he has the right to seek refuge in the courts and to expect the Supreme Court to strike down the act if it does in fact violate the Constitution. A written constitution would be valueless if it were otherwise.

The right and duty of the Court to construe the Constitution is thus made clear. The question may, however, be propounded whether in construing that instrument the Court has undertaken to "override the judgment of the Congress on legislative policy." It is not necessary for this committee to defend the Court from such a charge. An invasion of the legislative power by the judiciary would not, as has already been indicated, justify the invasion of judicial authority by the legislative power. The proper remedy against such an invasion is provided in the Constitution.

We may, however, point out that neither in this administration nor in any previous administration has the Supreme Court held unconstitutional more than a minor fraction of the laws which have been enacted. In 148 years, from 1789 to 1937, only 64 acts of Congress have been declared unconstitutional—64 acts out of a total of approximately 58,000 (appendix E).

These 64 acts were held invalid in 76 cases, 30 of which were decided by the unanimous vote of all the justices, 9 by the agreement of all but one of the justices, 14 by the agreement of all but two, another 12 by agreement of all but three. In 11 cases only were there as many as four dissenting votes when the laws were struck down.

Only four statutes enacted by the present administration have been declared unconstitutional with three or more dissenting votes. And only 11 statutes, or parts thereof, bearing the approval of the present Chief Executive out of 2,699 signed by him during his first administration, have been invalidated. Of the 11, three—the Municipal Bankruptcy Act, the Farm Mortgage Act, and the Railroad Pension Act—were not what have been commonly denominated administration measures. When he attached his signature to the Railroad Pension Act, the President was quoted as having expressed his personal doubt as to the constitutionality of the measure. The Farm Mortgage Act was later rewritten by

the Congress, reenacted, and in its new form sustained by the court which had previously held it void. Both the Farm Mortgage Act in its original form and the National Recovery Administration Act were held to be unconstitutional by a unanimous vote of all the justices. With this record of fact, it can scarcely be said with accuracy that the legislative power has suffered seriously at the hands of the Court.

Threat Seen to Guarantees of Individual Liberties

But even if the case were far worse than it is alleged to be, it would still be no argument in favor of this bill to say that the courts and some judges have abused their power. The courts are not perfect, nor are the judges. The Congress is not perfect, nor are Senators and Representatives. The Executive is not perfect. These branches of government and the office under them are filled by human beings who for the most part strive to live up to the dignity and idealism of a system that was designed to achieve the greatest possible measure of justice and freedom for all the people. We shall destroy the system when we reduce it to the imperfect standards of the men who operate it. We shall strengthen it and ourselves, we shall make justice and liberty for all men more certain when, by patience and self-restraint, we maintain it on the high plane on which it was conceived.

Inconvenience and even delay in the enactment of legislation is not a heavy price to pay for our system. Constitutional democracy moves forward with certainty rather than with speed. The safety and the permanence of the progressive march of our civilization are far more important to us and to those who are to come after us than the enactment now of any particular law. The Constitution of the United States provides ample opportunity for the expression of popular will to bring about such reforms and changes as the people may deem essential to their present and future welfare. It is the people's charter of the powers granted those who govern them.

Let it be recognized that not only is the commerce clause of the Constitution and the clauses having to do with due process and general welfare involved in the consideration of this bill, but every line of the Constitution from the preamble to the last amendment is affected. Every declarative statement in those clauses which we choose to call the Bill of Rights is involved. Guaranties of individual human liberty and the limitation of the governing powers and processes are all reviewable.

During the period in which the writing and the adoption of the Constitution was being considered, it was Patrick Henry who said:

"The Judiciary are the sole protection against a tyrannical execution of the laws. They (Congress) cannot depart from the Constitution; and their laws in opposition would be void."

Later, during the discussion of the Bill of Rights, James Madison declared:

"If they (the rights specified in the Bill of Rights) were incorporated into the Constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the legislative or Executive; they will be naturally led to resist every encroachment upon rights stipulated in the Constitution by the Declaration of Rights."

An Independent Court Vital to Rights of Citizens

These leaders, who were most deeply imbued with the duty of safeguarding human rights and who were most concerned to preserve the liberty lately won, never wavered in their belief that an independent judiciary and a Constitution defining with clarity the rights of the people, were the only safeguards of the citizen. Familiar with English history and the long struggle for human liberty, they held it to be an axiom of free government that there could be no security for the people against the encroachment of political power save a written Constitution and an uncontrolled judiciary.

This has now been demonstrated by 150 years of progressive American history. As a people, Americans love liberty. It may be with truth and pride also said that we have a

sensitive regard for human rights. Notwithstanding these facts, during 150 years the citizen over and over again has been compelled to contend for the plain rights guaranteed in the Constitution. Free speech, a free press, the right of assemblage, the right of a trial by jury, freedom from arbitrary arrest, religious freedom—these are among the great underlying principles upon which our democracy rests. But for all these, there have been occasions when the citizen has had to appeal to the courts for protection as against those who would take them away. And the ony place the citizen has been able to go in any of these instances, for protection against the abridgement of his rights, has been to an independent and uncontrolled and incorruptible judiciary. Our law reports are filled with decisions scattered throughout these long years, reassuring the citizen of his constitutional rights, restraining States, restraining the Congress, restraining the Executive, restraining majorities, and preserving the noblest in right of individuals.

Minority political groups, no less than religious and racial groups, have never failed, when forced to appeal to the Supreme Court of the United States, to find in its opinions the reassurance and protection of their constitutional rights. No finer or more durable philosophy of free government is to be found in all the writings and practices of great statesmen than may be found in the decisions of the Supreme Court when dealing with great problems of free government touching human rights. This would not have been possible without an independent judiciary.

No finer illustration of the vigilance of the Court in protecting human rights can be found than in the decision wherein was involved the rights of a Chinese person, wherein the Court said:

"When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. * * * The fundamental rights to life, liberty, and the pursuit of happiness considered as individual possessions are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that in the famous language of the Massachusetts Bill of Rights, the government of the Commonwealth 'may be a government of laws and not of men.' For the very idea that one man may be compelled to hold his life or the means of living or any material right essential to the enjoyment of life at the mere will of another, seems to be intolerable in any other country where freedom prevails, as being the essence of slavery itself. (Yick Wo v. Hopkins, 118 U. S. 356.)"

In the case involving the title to the great Arlington estate of Lee, the Court said:

"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance, with impunity. All the officers of the Government, from the highest to the lowest, are creatures of the law and are bound to obey it. (U. S. v. Lee, 106 U. S. 196.)"

In a noted case where several Negroes had been convicted of the crime of murder, the trial being held in the atmosphere of mob dominance, the Court set aside the conviction, saying:

"The State is free to regulate the procedure of its courts in accordance with its own conceptions of policy, unless in so doing it 'offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental.' (Snyder v. Mass.; Rogers v. Peck, 199 U. S. 425, 434.)

"The State may abolish trial by jury. It may dispense with indictment by a grand jury and substitute complaint or information. (Walker v. Sauvinet, 92 U. S. 90; Hurtado v. California, 110 U. S. 516; Snyder v. Mass., supra.) But the freedom of the State in establishing its policy is the freedom of constitutional government and is limited by the requirement of due process of law. Because a State may dispense with a jury trial, it does not follow that it may substitute trial by ordeal. The rack and torture chamber may not be substituted for the witness stand.

The State may not permit an accused to be hurried to conviction under mob domination—where the whole proceeding is but a mask—without supplying corrective process * * *."

Under a law enacted by a State legislature, it was made possible to censor and control the press through the power of injunction on the charge that the publication of malicious, scandalous, and defamatory matters against officials constituted a nuisance. The Supreme Court, holding the law void, said:

"The administration of government has become more complex, the opportunities for malfeasance and corruption have multiplied, crime has grown to most serious proportions, and the danger of its protection by unfaithful officials and the impairment of the fundamental security of life and property by criminal alliances and official neglect, emphasizes the primary need of a vigilant and courageous press, especially in great cities. The fact that the liberty of the press may be abused by miscreant purposes of scandal does not make less necessary the immunity of the press from previous restraint in dealing with official misconduct."

Speaking of the rights of labor, the Supreme Court has said:

"Labor unions are recognized by the Clayton Act as legal when instituted for mutual help and lawfully carrying out their legitimate objects. They have long been thus recognized by the courts. They were organized out of the necessities of the situation. A single employee was helpless in dealing with an employer. He was dependent ordinarily on his daily wage for the maintenance of himself and family. If the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employ and to resist arbitrary and unfair treatment. Union was essential to give laborers opportunity to deal on equally with their employer. They united to exert influence upon him and to leave him in a body in order by this inconvenience to induce him to make better terms with them. They were withholding their labor of economic value to make him pay what they thought it was worth. The right to combine for such a lawful purpose has in many years not been denied by any court. The strike became a lawful instrument in a lawful economic struggle or competition between employer and employees as to the share or division between them of the joint product of labor and capital (American Foundries v. Tri City Council, 257 U. S. 184)."

In another instance where the rights of labor were involved, the Court said:

"The legality of collective action on the part of employees in order to safeguard their property interests is not to be disputed. It has long been recognized that employees are entitled to organize for the purpose of securing the redress of grievances and to promote agreements with employers relating to rates of pay and conditions of work. Congress * * * could safeguard it and seek to make their appropriate collective action an instrument of peace rather than of strife. Such collective action would be a mockery if representation were made futile by interference with freedom of choice. Thus the prohibition by Congress of interference with the selection of representatives for the purpose of negotiation and conference between employers and employees, instead of being an invasion of the constitutional rights of either, was based on the recognition of the rights of both (Texas & New Orleans Railway Co. v. Brotherhood of Railway & Steamship Clerks, 281 U. S. 548)."

By the philosophy behind the pending measure it is declared that the Bill of Rights would never be violated, that freedom of speech, freedom of assemblage, freedom of the press, security of life, liberty, and property would never be challenged. Law takes its greatest force and its most secure foundation when it rests on the forum of experience. And how has our court of last resort in the past been called upon to contribute to that great fortification of the law?

In Cummings v. Missouri the rights of the lowly citizen were protected in the spirit of the Constitution by declaring that "no State shall pass any bill of attainder or ex post fact in law." In the Milligan case, in the midst of the frenzied wake of the Civil War, it was the Supreme Court which sustained a citizen

against an act of Congress, suspending the right of trial by jury.

In the case of Pierce v. The Society of Sisters, it was the Supreme Court that pronounced the inalienable right of the fathers and mothers of America to guide the destiny of their own children, when that power was challenged by an unconstitutional act of a sovereign State.

Only a few months ago in the Scotsboro cases the rights of a Negro to have counsel were upheld by this Court under the due process clause of the Constitution. On March 26 of this year, the Herndon case, the rights of freedom of speech and freedom of assembly were renunciated. Only a few weeks ago the Supreme Court construed the Constitution to uphold the Wagner Labor Act.

The Scottsboro Decision Cited As an Example

It would extend this report beyond proper limits to pursue this subject and trace out the holdings of the Court on the many different phases of human rights upon which it has had to pass; the record of the Court discloses, beyond peradventure of doubt, that in preserving and maintaining the rights of American citizens under the Constitution, it has been vigilant, able, and faithful.

If, at the time all these decisions were made, their making had been even remotely influenced by the possibility that such pronouncement would entail the appointment of a co-judge or co-judges to "apply the essential concepts of justice" in the light of what the then prevailing appointing power might believe to be the "needs of an ever-changing world" these landmarks of liberty of the lowly and humble might not today exist; nor would they exist tomorrow. However great the need for human progress and social uplift, their essentials are so interwoven and involved with the individual as to be inseparable.

The Constitution of the United States, courageously construed and upheld through 150 years of history, has been the bulwark of human liberty. It was bequeathd to us in a great hour of human destiny by one of the greatest characters civilization has produced—George Washington. It is in our hands now to preserve or to destroy. If ever there was a time when the people of America should heed the words of the Father of Their Country this is the hour. Listen to his solemn warning from the Farewell Address:

"It is important, likewise, that the habits of thinking, in a free country, should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding, in the exercises of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A first estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing in to different depositors, and constituting each the guardian of the public weal, against invasions by the others, has been evinced by experiment, ancient and modern; some of them in our own country, and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be, in any particular, wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance, in permanent evil, any partial or transient benefit which the use can, at any time, yield.

Summary

We recommend the rejection of this bill as a needless, futile, and utterly dangerous abandonment of constitutional principle.

It was presented to the Congress in a most intricate form and for reasons that obscured its real purpose.

It would not banish age from the bench nor abolish divided decisions.

It would not affect the power of any court to hold laws unconstitutional nor withdraw from any judge the authority to issue injunctions.

It would not reduce the expense of litigation nor speed the decision of cases.

It is a proposal without precedent and without justification.

It would subjugate the courts to the will of Congress and the President and thereby destroy the independence of the judiciary, the only certain shield of individual rights.

It contains the germ of a system of centralized administration of law that would enable an executive so minded to send his judges into every judicial district in the land to sit in judgment on controversies between the Government and the citizen.

It points the way to the evasion of the Constitution and establishes the method whereby the people may be deprived of their right to pass upon all amendments of the fundamental law.

It stands now before the country, acknowledged by its proponents as a plan to force judicial interpretation of the Constitution, a proposal that violates every sacred tradition of American democracy.

Under the form of the Constitution it seeks to do that which is unconstitutional.

Its ultimate operation would be to make this Government one of men rather than one of law, and its practical operation would be to make the Constitution what the executive or legislative branches of the Government choose to say it is—an interpretation to be changed with each change of administration.

It is a measure which should be so emphatically rejected that its parallel will never again be presented to the free representatives of the free people of America.

SEVENTEENTH DAY

(Friday, June 25, 1937)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Woodul.

The roll was called and the following Senators were present:

Aikin	Davis
Beck	Hill
Brownlee	Isbell
Burns	Moore
Collie	Neal
Cotten	Nelson
Newton	Spears
Oneal	Stone
Pace	Sulak
Rawlings	Van Zandt
Redditt	Westerfeld
Roberts	Winfield
Shivers	Woodruff
Small	

The following Senators were absent and excused:

Head	Lemens
Holbrook	Weinert

A quorum was announced present.

The invocation was offered by the Chaplain.

Reading of the Journal of the proceedings of yesterday was dispensed with, on motion of Senator Roberts.

Leaves of Absence

Senator Head was granted leave of absence for today, on account of illness, on motion of Senator Collie.

Senator Lemens was granted leave of absence for today, on account of illness, on motion of Senator Aikin.

Senators Weinert and Holbrook were granted leaves of absence for today, on account of important business, on motion of Senator Burns.

Message From the Governor

The President laid before the Senate, and had read, the following message from the Governor:

Executive Office,
Austin, Texas, June 24, 1937.

To the Members of the Forty-fifth Legislature (In First Called Session):

I am disapproving and vetoing the following items of House Bill No. 1, Acts of the First Called Session of the Forty-fifth Legislature, which was received by me at the Governor's Office on June 21, 1937, for the following reasons, to-wit:

1.

Section 6, Page 6 for the reason that the appropriation of $3,000.00 made to the Board of Water Engineers for the purpose of securing necessary and adequate quarters is inadequate to secure sufficient space as is required by such Board. Furthermore, it is only a question of a short time until the